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FEDERAL ACQUISITION: WHY ARE BILLIONS OF DOLLARS BEING WASTED?

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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FEDERAL ACQUISITION: WHY ARE BILLIONS OF DOLLARS BEING WASTED?

THURSDAY, MARCH 16, 2000

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION, AND TECHNOLOGY,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn, Davis, Ose, Kelly, Turner, and Maloney.

Staff present: J. Russell George, staff director and chief counsel; Randy Kaplan, counsel; Bonnie Heald, director of communications; Bryan Sisk, clerk; Ryan McKee, staff assistant; Trey Henderson, minority counsel; Mark Stephenson, minority professional staff member; and Jean Gosa, minority assistant clerk.

Mr. HORN. A quorum being present, the hearing of the Subcommittee on Government Management, Information, and Technology will come to order.

Last year, the Federal Government bought nearly $200 billion worth of goods and services, everything from paper clips and pens to sophisticated weapons and computer systems. Over the past decade, Congress has enacted a number of laws aimed at simplifying the government's acquisition process and saving taxpayers money. These reforms eliminated burdensome paperwork and encouraged agencies to buy commercially available items. The reforms also gave agencies greater authority to manage their procurement.

How well are agencies doing? The government is still buying goods and services that cost more than they should, are delivered late, or fail to meet expectations. The result is, of course, that billions of taxpayers' dollars are still being wasted.

For example, the Federal Aviation Administration has spent more than $25 billion on its air traffic control modernization effort, but because of cost overruns, schedule delays, and performance shortfalls, the FAA anticipates spending another $17 billion before the program's completion, scheduled for 2004.

The Department of the Interior recently put a hold on a $60 million computer system because of severe development problems. This system was supposed to manage a $500 million oil royalty fund, which is to pay Native Americans for oil that is extracted from their tribal lands.

Problems and challenges also remain at the Department of Defense, which accounts for nearly 70 percent of all government purchases. The Inspector General at the Department of Defense has raised concerns about the agency's failure to oversee its service contracts adequately. The Department is still paying far too much for spare parts and the Office of the Inspector General in the Department of Defense has found that serious problems exist with the Department's service contracts. In a recent audit, the Inspector General found multiple errors in the 59 contracts it reviewed, including problems such as insufficient cost estimates and inadequate competition. Together, these contracts are worth $6.7 billion.

Another emerging issue is an unintended result of government downsizing the General Accounting Office and the Inspector General report that the current Federal acquisition work force is understaffed and undertrained. That problem will be increasing dramatically as the baby boom generation begins to retire over the next few years. How is the Department planning for this attrition? We will examine these and other issues today.

First, I would like to take a moment to welcome some special guests in the audience, members of the so-called Front Line Forum. The Front Line Forum is a group of 32 Federal contracting officers and specialists who share new information on government acquisition issues and then pass that information on to senior procurement executives in their respective agencies. We thank you for your service and we are glad you are joining us. Would the Front Line Forum members stand up so we can know where you are? Do not be shy.

There we are, folks. You mean there are only 10? What happened to the 32? Are they drinking coffee in the Rayburn cafeteria? It is not Starbucks quality. Anyhow, we are glad to have you here. When I ran a large organization, I had a group of young turks I met with every month. They were the only ones who would tell me the truth in a bureaucracy, so I am counting on you 32 to tell them the truth. That is what they need.

We are going to have a fine panel of witnesses, but before that, I have some colleagues that want to make some opening remarks. The first is a very valued colleague, the ranking member on this committee, Mr. Turner of Texas. I am delighted to give him as much time as he may wish to consume.

Mr. TURNER. Thank you, Mr. Chairman. I appreciate the fact that you are holding this hearing today. It is a very important issue. As you mentioned, the Federal Government purchases over $200 billion in supplies every year. Two-thirds of that is acquired by the Defense Department, even though that has declined slightly since the peak cold war years. I understand the government now spends more on services than it does on supplies.

The Federal Government has struggled with an inefficient acquisition system. Over the years, we know that millions of dollars in taxpayers' money have been wasted due to the deficiencies in the Federal procurement system. Recently, the administration and the Congress has taken a number of steps to try to improve this situation. The Federal Acquisition Streamlining Act of 1994, the Information Technology Management Reform Act of 1996, and the Fed-

eral Activities Inventory Reform Act of 1998 all represent significant steps forward in Federal acquisition.

The efforts by the Congress and the administration have focused largely on trying to simplify the process, but despite the reforms, it seems that we do not yet have a model purchasing system. Agencies may be acquiring goods and services faster, but the Federal acquisition system still faces a number of significant challenges. I hope those will be highlighted today.

I appreciate the focus the chairman has placed on this issue, and I want to join Mr. Horn in welcoming the members of the Front Line Forum who have come today to observe our hearing. You face difficult challenges in the work that you do and meeting the expectation of the agencies and the Congress and the public is indeed a difficult task. We have asked all of you to adapt to new ways of doing business, trying to deliver greater results than we have in the past, and we appreciate the dedication that all of you have shown to your profession and to those responsibilities.

Mr. Chairman, thank you and I look forward to hearing our witnesses today.

[The prepared statement of Hon. Jim Turner follows:]

Statement of the Honorable Jim Turner
GMIT Hearing: "Federal Acquisition: Why Are Billions of Dollars Being Wasted?"
March 16, 2000

Thank you, Mr. Chairman. The federal government spends nearly $200 billion annually buying everything from office supplies to sophisticated weapons systems. Although the Department of Defense remains the dominant federal buyer, accounting for two-thirds of all federal acquisition spending last year, defense acquisition has declined from peak Cold War levels. Spending by civilian agencies has increased moderately. The government as a whole now spends more on services than on supplies.

For decades, the federal government has been struggling with an inefficient acquisition system and the resulting negative impact on agency operations. Over the years, billions of taxpayer dollars have been wasted due to deficiencies in federal procurement programs. Recently, however, the Administration and Congress have taken a number of steps to improve federal acquisition. These efforts include the Federal Acquisition Streamlining Act of 1994, Information Technology Management Reform Act of 1996, and the Federal Activities Inventory Reform Act of 1998.

The efforts by the Administration and Congress have focused largely on simplifying the process, but despite the reforms, the government still does not have a model purchasing system. Agencies may be acquiring goods and services faster, but the federal acquisition system still faces a number of significant challenges that will be highlighted at the hearing, including:

- improving the outcomes of defense systems acquisitions;
- acquiring and using information technology;
- addressing acquisition workforce issues;
- ensuring participation of small, disadvantaged, and women-owned businesses in federal procurement; and
- increasing federal agency use of electronic commerce to simplify the acquisition process.

I want to thank the Chairman for his focus on this issue as well as welcome the witnesses this morning. I also want to extend my personal appreciation to the members of the Front-Line Forum for showing their interest in today's proceedings. As front-line contracting officials, you face the daunting challenge of meeting the expectations of your agencies, of this Congress, and of the American public in a time when the rules of the game are undergoing significant change. We've asked you to adapt to new ways of doing business and to deliver greater results than did your predecessors. I admire your dedication to your profession and to your responsibilities, and I am honored in recognizing the value you provide to this great country.

Mr. HORN. Thank you very much.

If the witnesses will stand and raise their right hands, do you swear or affirm that the testimony you are about to give this subcommittee will be the truth, the whole truth, and nothing but the truth?

[Witnesses sworn.]

Mr. HORN. The clerk will note that all four witnesses took the oath.

We are going to start with Mr. Henry Hinton, Jr., the Assistant Comptroller General of the United States in charge of the National Security and International Affairs Division of the General Accounting Office. I will introduce each as we go down the line. So Mr. Hinton, start in. If you can summarize the statement in 5 years—[laughter.]

I mean 5 minutes——

Mr. HINTON. I will do what I can do.

Mr. HORN. Obviously, I woke up a little later than I should have. Anyhow, 5 minutes, but do not worry about it. If you go beyond it, 10 minutes, we are not going to cry over it. But try to summarize.

STATEMENTS OF HENRY L. HINTON, JR., ASSISTANT COMPTROLLER GENERAL, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, GENERAL ACCOUNTING OFFICE; ROBERT J. LIEBERMAN, ASSISTANT INSPECTOR GENERAL FOR AUDITING, DEPARTMENT OF DEFENSE; STAN Z. SOLOWAY, DEPUTY UNDER SECRETARY FOR ACQUISITION REFORM, DEPARTMENT OF DEFENSE; AND DEIDRE A. LEE, ADMINISTRATOR, OFFICE OF FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGEMENT AND BUDGET

Mr. HINTON. I will be as brief as I can. Thank you, Mr. Chairman and Mr. Turner. I appreciate the opportunity to participate in today's hearing. As you know, Mr. Chairman, Federal acquisition is an important topic for many reasons, not the least of which is the huge amounts of money involved. The Federal Government spends nearly $200 billion annually buying everything from office supplies to sophisticated weapons systems.

This morning, I will: one, describe the changing acquisition environment; two, summarize recent reform efforts; and three, explore current and future challenges in this area.

First, the environment is changing, and I will call your attention to some charts that I am going to use, Mr. Chairman, to walk us through my summary. As shown in the first chart, overall Federal contracting has declined from about $280 billion in 1985 to about $200 billion in 1999. Of this, defense acquisition has declined about $100 billion, down to about $133 billion in 1999. On the other hand, spending by civilian agencies has increased from $51 billion to $65 billion.

The next chart shows that DOD is still the dominant purchaser. It accounts for two-thirds of all Federal spending on goods and services.

The next chart shows that since the mid-1980's, there has been a gradual shift in what the government buys. In 1985, supplies and equipment accounted for the bulk of contracting dollars, about $145

billion, or 56 percent. For 1999, the largest acquisition category were services, at $78 billion, or 43 percent of total spending.

The last chart shows even more dramatically how spending has shifted in recent years. As you can see to the right, the government now spends more on services than on any other acquisition category.

Let me briefly turn to recent reform efforts. As you have mentioned, as the acquisition spending patterns have been changing in recent years, Congress and the administration have been taking a number of steps to improve the acquisition process. These efforts have focused largely on simplifying the process, particularly for buying commercial products and services, and on attempting to improve decisionmaking and acquiring information technology. As a result, the acquisition process has become more streamlined as new contract vehicles and techniques have allowed agencies to buy what they need much faster than in the past. Questions remain, however, about whether these efficiencies have come at the expense of competition and good pricing.

Let me turn to the challenges, Mr. Chairman. Despite reforms, the government still does not have a world class purchasing system. Frequently, many of the products and services the government buys cost more than expected, are delivered late, or fail to perform as anticipated. Mr. Chairman, I see three major challenges confronting the acquisition system today.

First, our work indicates that far too often, the outcomes of high-dollar-value defense acquisitions continue to fall short of expectations. For example, we reported in August 1999 that after five program restructurings, the Army's Comanche Helicopter Program contained significant risk of cost overruns, schedule delays, and degraded performance. These risks exist because, contrary to the practices of successful commercial companies, program plans call for proceeding with product development before key equipment technologies have matured.

But these results are not limited to highly sophisticated weapons systems. We recently reported that the Army has purchased some 6,000 cargo trailers, shown in the chart to my left, that without modifications cannot be used as planned because they pose a safety risk and could damage the vehicles towing them. Today, these trailers that the Army has acquired are warehoused.

We have compared the product development practices of leading commercial firms with those used to acquire defense systems. The key differences, Mr. Chairman, include the nature of the business case required to support the start of a program, the extent of product knowledge at critical decision points, and the underlying incentives. In general, aspiring defense programs rely on unproven technological advances to successfully compete for limited defense funds. Commercial companies, on the other hand, demand much more knowledge about key technologies before proceeding with development of new products. Mr. Chairman, when use of commercial best practices is determined to be appropriate, the government should adopt such practices unless there is a compelling reason not to do so.

The second challenge is that the Federal Government is increasingly dependent on information technology to improve performance

and meet mission goals. We have documented over many years, however, that billions of dollars have been wasted on information technology that failed to deliver expected results. Poorly defined management processes have fostered sub-optimal solutions to agency business needs, and unresolved security issues have threatened the integrity of agency operations. These problems have involved such important functions as air traffic control, tax collection, Medicare transactions, weather forecasting, and national defense.

Several recent reforms, as you mentioned in your opening statement, Mr. Chairman, have helped to instill a much-needed results-oriented approach toward IT acquisitions and in-house development efforts. Some agencies, such as the IRS, have begun to make significant progress in establishing a management framework for making information technology investment decisions. Other agencies, however, have yet to make significant inroads into implementing the processes and controls needed to manage these acquisitions effectively.

The third challenge is that successfully implementing acquisition reform and achieving good contract management requires that agencies have the right people with the right skills. But throughout the Federal Government, there is a looming human capital crisis. In more than 10 years of downsizing, there has been relatively little hiring at the entry level compared with earlier years. As a result, the percentage of the work force age 30 and under, the pipeline of the future agency talent and leadership, has dropped dramatically, while the percentage of the work force age 50 and above grows even larger. Within the next several years, we can expect to see a huge knowledge drain as many of our more experienced and valued people leave the Federal work force.

Dealing with this issue throughout the government, including the important area of acquisition, will not be easy. Agencies are facing ever-growing public demands for better and more economical delivery of products and services, and at the same time, the ongoing technological revolution requires not just new hardware and software, but a work force with new knowledge, skills, and abilities. And at the moment, agencies must address these challenges in an economy that makes it difficult to compete for people with the competencies needed to achieve and maintain high performance.

Mr. Chairman, as you are aware, when the Y2K debate began, we developed a guide that helped the agencies think through their strategic decisions to deal with the issues coming up on Y2K. We are in the process now of getting comments back on a draft human capital guide that we have put together for agency leaders to help them think through the strategic decisions they need to address concerning their work force. The topics we have in that guide concern strategic planning, organizational development, leadership, talent, and performance culture.

Mr. Chairman, that concludes my opening statement and I stand ready to take your questions.

Mr. HORN. Thank you very much, Mr. Hinton. We are going to go through the next three witnesses and then we will have questions for all of you.

[The prepared statement of Mr. Hinton follows:]

United States General Accounting Office

GAO

Testimony

Subcommittee on Government Management,
Information, and Technology
House Committee on Government Reform

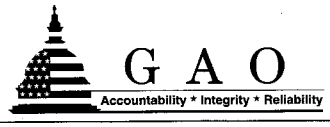
For Release on Delivery
10:00 a.m. EST
Thursday,
March 16, 2000

FEDERAL ACQUISITION

Trends, Reforms, and Challenges

Statement of Henry L. Hinton, Jr.
Assistant Comptroller General
National Security and International Affairs Division





GAO/T-OCG-00-7

Statement

Federal Acquisition: Trends, Reforms, and Challenges

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here today to participate in the Subcommittee's hearing on federal acquisition issues. Federal acquisition is an important topic for many reasons, not the least of which is the huge amounts of money involved. The federal government spends nearly $200 billion annually buying everything from office supplies to sophisticated weapons systems. But more importantly, agencies' success in efficiently acquiring goods and services directly affects their ability to improve government operations and provide better service to the American people. Uneconomical, inefficient, and ineffective acquisition activities undermine the public's confidence in government and waste taxpayer dollars.

My statement today will

- describe the changing acquisition environment,
- summarize recent reform efforts, and
- explore current and future challenges in this area.

The reports I will refer to, as well as several others we have issued on this subject, are listed in attachment II.

Summary

Federal spending for goods and services has changed significantly in recent years. Although the Department of Defense (DOD) remains the dominant federal buyer, accounting for two-thirds of all federal acquisition spending last year, defense acquisition has declined from peak Cold War levels. Spending by civilian agencies has increased moderately. The government as a whole now spends more on services—ranging from basic maintenance, to running computer systems, to operating the space shuttle—than on supplies and equipment. The acquisition process has become more streamlined as new contract vehicles and techniques have allowed agencies to buy what they need much faster than in the past.

Congress and the Administration have taken a number of steps recently to improve federal acquisition. These efforts have focused largely on simplifying the process, particularly for buying commercial products and services, and on attempting to improve decisionmaking in acquiring information technology. But despite recent reforms and the efforts of many dedicated people over the years, the government still does not have a world-class purchasing system. All too often, many of the products and services the government buys cost more than expected, are delivered late, or fail to perform as anticipated. No commercial business would remain viable for very long with results like these. Problems are particularly

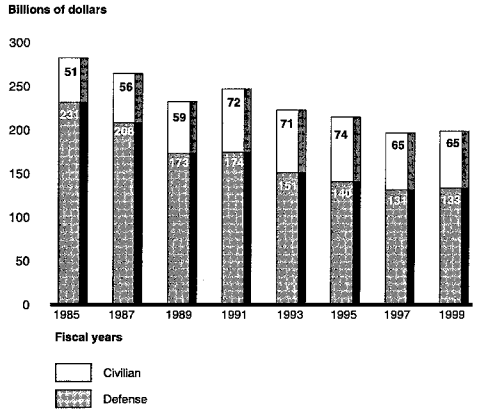
evident in the two areas where most of the dollars are spent: weapons and information technology systems. Significant improvements in these areas—as well as in the skills of the acquisition workforce—are needed in order to produce better outcomes. We have made a number of recommendations over the years to improve acquisition outcomes, including the use by federal agencies of best commercial practices.

The Environment

Before discussing recent changes in federal acquisition in detail, I would like to make a point about the overall government environment of which acquisition is a part. That is, despite today's budget surpluses, the federal government continues to face compelling fiscal pressures. These pressures are likely to continue, if not intensify, particularly in the long term as we address issues such as Social Security and health care for an aging population. Bills also will become due for other efforts, such as environmental clean up, and the DOD plans to spend over $350 billion on three new tactical aircraft. After a decade of deficit reduction, there are numerous other pent-up demands for using projected budget surpluses. What this means is that government acquisition, a major component of discretionary spending, will have to compete with other funding priorities for scarce federal resources. It is therefore all the more critical that we distinguish between wants and needs, focus on what we can afford, and obtain maximum value and return on taxpayer dollars.

Let me now provide you with some details on how the federal acquisition environment has changed in recent years. Using constant 1999 dollars, figure 1 shows that overall federal contracting has declined from about $280 billion in fiscal year 1985 to about $200 billion in fiscal year 1999. During this period, defense acquisition declined nearly $100 billion, and civilian agency acquisition increased $14 billion. As a result, the percentage of total contracting dollars spent by civilian agencies has increased from about 18 percent in fiscal year 1985 to about 33 percent in fiscal year 1999.

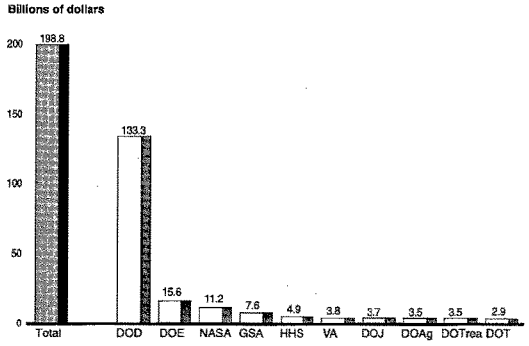
Figure 1: Defense and Civilian Agency Contracting Dollars Since the Mid-1980s (in Constant 1999 Dollars)



Source: All actions reported to the Federal Procurement Data System.

Although defense acquisition has declined, DOD is still the dominant purchaser in the federal community, accounting for about two-thirds of contracting dollars in fiscal year 1999. Figure 2 shows the top 10 federal agencies, in terms of contracting dollars, in fiscal year 1999.

Figure 2: DOD Was the Dominant Purchaser in Fiscal Year 1999

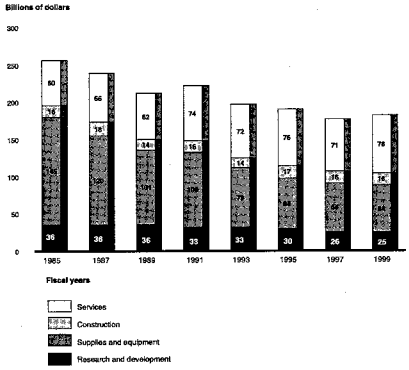


Note: Some agencies do not report to the Federal Procurement Data System. The largest of these agencies, the U.S. Postal Service, spent $9.1 billion on goods, services, and construction in fiscal year 1999.

Source: All actions reported to the Federal Procurement Data System.

Since the mid-1980s, there has been a gradual shift in what the government buys. In constant 1999 dollars, figure 3 shows that, in fiscal year 1985, supplies and equipment accounted for the bulk of contracting dollars—about $145 billion, or 56 percent—compared to services, construction, and research and development. By fiscal year 1999, the largest acquisition category was services at $78 billion, or 43 percent of total spending. Supplies and equipment expenditures were about $64 billion, or 35 percent. Construction spending remained about $16 billion. Research and development declined in constant dollar terms from $36 billion to $25 billion, but declined only slightly as a percentage of total acquisition spending.

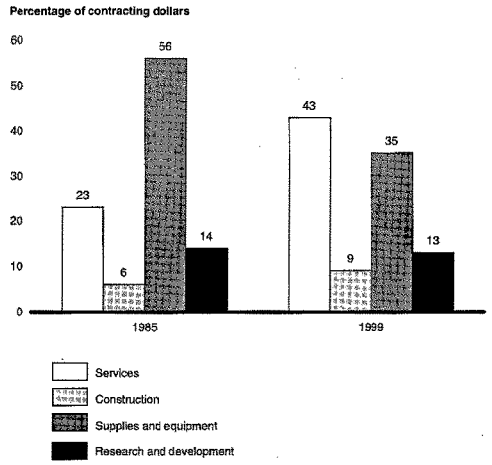
Figure 3: The Bulk of Contracting Dollars Have Shifted From Supplies and Equipment to Services (Constant 1999 Dollars)



Source: Federal Procurement Data System. These data reflect actions reported to the Federal Procurement Data System, generally excluding those less than $25,000.

The result of this gradual shift in what the government buys is more dramatically displayed in figure 4. The government now spends more for services than for any other acquisition category.

Figure 4: Comparing Fiscal Year 1985 With Fiscal Year 1999 Shows the Bulk of Contracting Activity Has Shifted



Source: Federal Procurement Data System. These data reflect actions reported to the Federal Procurement Data System, generally excluding those less than $25,000. The percentages for 1985 do not total to 100 due to rounding.

One of the top items in the services category is professional, administrative, and management support. Such services would include, for example, a DOD contract for strategic business process reengineering used to acquire contractor assistance in improving business practices and to obtain support for strategic planning, investment analysis, and training. Another large component of services contracting involves managing and operating government facilities, such as national laboratories. The top items in the supply and equipment category in fiscal year 1999 were aircraft and information technology.

In addition to changes in *what* the government buys, we also are seeing changes in *how* the government buys. Agencies are making greater use of contracts awarded by other agencies, as well as federal supply schedule

contacts[1] awarded by the General Services Administration (GSA). Use of these types of vehicles can reduce acquisition time significantly. For example, a recent GSA study found that it takes only 15 days, on average, to issue an order under a schedule contract versus 268 days to award a contract using the traditional method. Use of GSA federal supply schedules has grown from $4.5 billion in 1993 to $10.5 billion in 1999. Most of the growth has been in the area of information technology.

So what does all this mean, what are the implications of these data, and what can we expect in the future? Taken together, the data tell us that the federal acquisition environment is now characterized by a greater reliance on services and information technology. In many ways, these trends in government procurement merely reflect changes in the overall global economy. Because the government is but one of many players in this services- and information-driven economy, it will have to become a smarter, more commercial-oriented buyer. At the same time, the government continues to spend enormous amounts in markets where it remains the only—or at least the dominant—buyer, such as procurements of unique defense and space systems. It is in these areas where vigorous oversight will continue to be needed because competition in these markets often is limited and the government frequently relies on contractor costs in the pricing of contracts.

As we look to the future, there are several trends that bear watching. Contracting for services likely will continue to increase because of further downsizing and initiatives such as the Federal Activities Inventory Reform Act of 1998 (FAIR). This legislation requires agencies to identify functions that could be performed by the private sector. Agency spending on information technology-related goods and services, currently about $40 billion annually, likely will increase as agencies seek to modernize their equipment and continue to take advantage of the latest technologies. Also, recent budget projections indicate that spending on acquisitions of major defense equipment will likely increase.

We should also expect that electronic commerce will become the preferred approach for accomplishing a variety of procurement tasks, ranging from conducting market research, to selecting suppliers, to placing orders, to making payments online. The Administration has encouraged agencies to use electronic commerce to streamline and improve federal buying practices. With the proliferation of Internet use throughout

[1] GSA negotiates contracts with vendors for a wide variety of mostly commercial-type products and services. These contracts permit other agencies to place orders directly with the vendors.

government, industry, and the public, agencies are seeking to capitalize on electronic commerce capabilities to improve efficiency and economy. At the same time, agencies must understand and manage the challenges and risks of using a global, public, electronic network. To avoid loss of public trust, agencies must strive for reliability, integrity, security, and privacy in all electronic commerce transactions.

Acquisition Reforms

For decades, the federal government has been struggling with an inefficient acquisition system and the resulting negative impact on agency operations. There also is a long history of attempts to improve the acquisition system. Attachment I displays these efforts in a timeline. The 1980s, in particular, witnessed a proliferation of requirements governing almost every aspect of the acquisition process. Some were in response to the stories of excessive prices paid for military spare parts, criminal activity, the frequency of cost overruns, and increasing acquisition delays.

These requirements were enacted to serve valid purposes. For example, the Competition in Contracting Act of 1984, which established the current competitive acquisition system, was enacted after years of congressional concern that, rather than seeking competition, executive agencies relied on sole-source contracts to an unacceptable extent. Audit requirements and cost principles were established to control what the government pays under its contracts. Socioeconomic requirements were designed to promote desirable social objectives, such as enhancing small and minority business participation. In 1988, the Procurement Integrity Act was enacted to ensure that procurement officials do not engage in employment discussions with companies with which they are negotiating contracts or give inside information to contractors.

When all these requirements—as well as others imposed by regulation—were added together, however, some came to believe that the result was a complex and unwieldy system that had become overwrought with tension between the basic goals of efficiency and fairness. Government contracting officials were confronted with numerous mandates that left little room for the exercise of sound business judgment, initiative, and creativity in satisfying the needs of their agency customers. In this environment, there were concerns about the government's ability to take full advantage of the commercial marketplace.

In response to these concerns, Congress enacted two pieces of reform legislation: the Federal Acquisition Streamlining Act (FASA) of 1994 and the Clinger-Cohen Act of 1996. Table 1 summarizes the major changes that were implemented under FASA and the Clinger-Cohen Act.

Table 1: Major Changes under FASA and the Clinger-Cohen Act

Federal Acquisition Streamlining Act of 1994 (FASA)
•Exempted commercial items from many unique government requirements
•Promoted use of simplified buying procedures for low dollar-value purchases
•Encouraged use of electronic commerce
•Established statutory framework for task- and delivery-order contracts
Clinger-Cohen Act of 1996
•Devolved information technology procurement authority from GSA to agencies
•Emphasized accountability, performance, and results-based IT management
•Allowed contracting officers to select competitive contractors more efficiently
•Promoted improved performance of the civilian agency acquisition workforce

Congress also has taken other actions to provide agencies more flexibility in acquiring goods and services. For example, Congress has permitted the Federal Aviation Administration to devise its own procurement system outside the usual statutory framework. It also has allowed some agencies to use alternative approaches to contract through so-called "other transactions." These agreements generally are not subject to federal laws and regulations governing standard procurement contracts. One of the intended benefits of using this authority is to attract commercial firms and other organizations that otherwise might not accept a standard contract because of government requirements that they view as unduly burdensome.

In addition to these legislative changes, there have been a number of administrative and regulatory reforms. These include reducing government-mandated product specifications, increasing the use of government purchase cards, and encouraging flexibility and innovation in negotiating contracts.

The United States is not alone in implementing reforms. As you know, Mr. Chairman, we issued a report to you and Congressman Tom Davis last July that discussed procurement reform in four selected countries. These countries—Canada, the United Kingdom, Australia, and New Zealand—have reassessed the role of their central procurement agencies, empowered civil servants to make business decisions, and shifted to greater reliance on the private sector. Although officials in these countries generally were satisfied with the changes, performance data on the effectiveness of the various changes were not yet available.

As with these other countries, it is difficult to provide a full assessment of the impact of reforms because many of them are still being implemented. And, in some cases, there is a lack of reliable baseline data. For example,

we reported that it was difficult to measure any increase in the government's purchases of commercial items since the 1994 acquisition streamlining act because reliable baseline data were not available. Nevertheless, we are seeing some changes. Agencies have streamlined their acquisition processes, particularly by using governmentwide acquisition contracts and schedule contracts, and thus can get what they need faster. There has also been an increase in agencies' use of purchase cards and electronic commerce as a means of quickly accessing goods and services.

Questions remain, however, about whether these efficiencies have come at the expense of competition and good pricing. For example, we have found that DOD receives few competing proposals on large information technology orders. We also have reported that some contracting officials are having difficulty making the transition from pricing goods and services based on the costs incurred by contractors to a commercial model in which factors other than cost are the principal means used to establish prices. This sometimes resulted in significantly higher prices than previously paid. For example, a defense agency paid $453 per unit for wiring harnesses for the C-130 aircraft, even though it had paid only $91 per unit 2 years earlier. The buyer did not use this price history to try to negotiate a lower price. In addition, our reviews of delays and cost overruns at the Department of Energy's (DOE) Idaho and Hanford facilities suggest that DOE personnel lack expertise in administering fixed-price contracts.

Major Challenges

Agencies may be acquiring goods and services faster, but the federal acquisition system still faces a number of significant challenges. In our view, the most significant challenges involve three key areas: improving the outcomes of defense systems acquisitions, acquiring and using information technology, and addressing acquisition workforce issues. In each of these areas, much can be gained from reviewing the practices of leading commercial companies who have learned to use key enablers—process, people, and technology—to produce better outcomes.

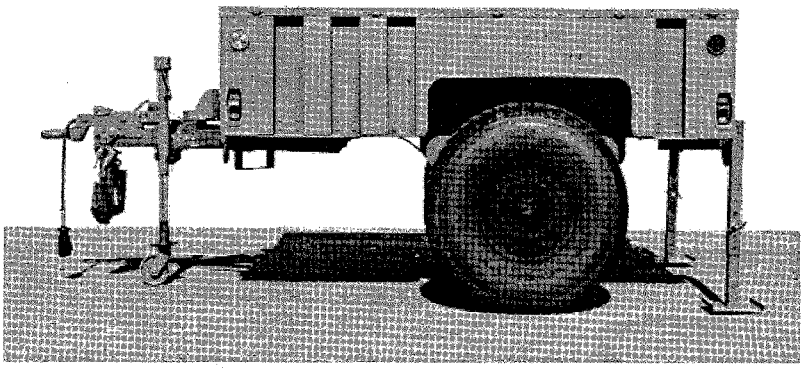
Defense Systems

The acquisition reforms to date have focused largely on simplifying the procurement process, particularly for commercial and lower dollar-value items. Our work indicates, however, that far too often the outcomes of high dollar-value acquisitions continue to fall short of expectations. When we compare government acquisition practices to those of leading commercial companies, it is clear that we still have a long way to go.

For example, we reported in August 1999 that, after five program restructurings, the Army's Comanche helicopter program contains significant risks of cost overruns, schedule delays, and degraded performance. These risks exist because, contrary to the practices of successful commercial companies, program plans call for proceeding with product development before key equipment technologies have matured. In addition, the Army plans to begin production of the Comanche before even starting critical tests needed to determine whether these technologies are mature and will work as designed.

These are not new issues. Similar approaches were used on such troubled programs as the B-2 bomber, the C-17 airlifter, and many others, with similar results. Nor are these results limited to highly sophisticated weapons systems. We recently reported that the Army has purchased more than 6,000 chassis and cargo trailers (shown in figure 5) that, without modifications, cannot be used as planned because they pose a safety risk and could damage the vehicles towing them.

Figure 5: Cargo Trailer



We have compared the product development practices of leading commercial firms with those used to acquire defense systems. The key differences include the nature of the business case required to support the start of a program, the extent of product knowledge at critical decision points, and the underlying incentives. In general, aspiring defense programs rely on unproven technological advances to successfully compete for limited defense funds. Commercial companies, on the other hand, demand much more knowledge about key technologies before proceeding with the development of new products.

A number of actions are underway to improve DOD's weapons acquisition outcomes, and DOD's leadership is genuinely committed to change. Lasting improvements in the outcomes of acquisition programs will not be

realized, however, until the incentives that drive behaviors are changed. Specifically, existing incentives to start, fund, and continue weapons acquisition programs must be realigned with desired outcomes. DOD's traditional practice of approving requested programs, and then reducing procurement quantities in the face of budget pressures, just increases unit costs and exacerbates the problem of aging, high-maintenance equipment. Changing the incentives—that is, redefining program success—will take the efforts of Congress as well as of DOD and the military services.

Information Technology

The federal government is increasingly dependent on information technology to improve performance and meet mission goals. Agencies depend heavily on computer systems and networks to implement a vast array of programs supporting, among other things, national defense, revenue collections, and social benefits. Consequently, successfully acquiring and applying modern technology is central to improving government operations and generating better service to the American people. We have documented over many years, however, that

- billions of dollars have been wasted on information technology that failed to deliver expected results,
- poorly defined management processes have fostered suboptimal solutions to agency business needs, and
- unresolved security issues have threatened the integrity of agency operations.

These problems have involved such important functions as air traffic control, tax collection, Medicare transactions, weather forecasting, and national defense. For example, because the Health Care Financing Administration had not adequately reviewed, revised, and improved mission-related and administrative processes before making a significant information technology investment, the agency was forced to terminate an important project after cost estimates had soared from $151 million to about $1 billion. At DOD, we found a breakdown in the oversight mechanism for ensuring sound management and development practices for changing hundreds of inefficient information systems. One result of the lack of strong oversight was that a supply management project was abandoned after more than $700 million had been spent.

Several recent reforms—including the Clinger-Cohen Act of 1996, revisions to the Paperwork Reduction Act, the Government Performance and Results Act, the Chief Financial Officers Act, and the Federal Acquisition Streamlining Act—have helped to instill a much-needed results-oriented approach toward IT acquisitions and in-house development efforts. For

instance, a key goal of the Clinger-Cohen Act, which is based on best private-sector practices, is that agencies should have processes in place to ensure that IT projects are implemented at acceptable costs and within reasonable time frames, and are contributing to tangible, observable improvements in mission performance.

Some agencies, such as the Internal Revenue Service, have begun to make significant progress in establishing a management framework for making information technology investment decisions. The Federal Aviation Administration has established a structured approach for selecting and controlling its investments, but the approach does not cover all its projects and the agency lacks complete and reliable project information. Other agencies have yet to make significant inroads into implementing the processes and controls needed to manage these acquisitions effectively.

Acquisition Workforce

Another challenging issue is the capacity of the acquisition workforce to perform effectively in today's dynamic environment. Successfully implementing acquisition reform and achieving good contract management require that agencies have the right people with the right skills. But throughout the federal government there is a looming human capital crisis. In more than 10 years of downsizing, there has been relatively little hiring at the entry level compared with earlier years. As a result, the percentage of the workforce aged 30 and under—the pipeline of future agency talent and leadership—has dropped dramatically, while the percentage of the workforce aged 50 and above grows ever larger. Within the next several years, we can expect to see a huge knowledge drain as many of our more experienced and valued people leave the federal workforce. Unfortunately, the government's hiring, training, and retention practices have not been oriented toward maintaining a balanced, stable workforce and ensuring adequate emphasis on career development, training, and orderly succession planning.

Dealing with this issue throughout the government, including in the acquisition area, will not be easy. Agencies are facing ever-growing public demands for better and more economical delivery of products and services. At the same time, the ongoing technological revolution requires not just new hardware and software, but a workforce with new knowledge, skills, and abilities. And, at the moment, agencies must address these challenges in an economy that makes it difficult to compete for people with the competencies needed to achieve and maintain high performance.

Having a high-quality acquisition workforce—the right people, with the right skills, and the right incentives—will become even more critical in an

era of increased outsourcing. Federal agencies have been encouraged to conduct public-private competitions to determine the best source to perform commercial type activities, and perhaps realize significant savings. DOD, for example, currently has plans to complete competitive sourcing studies involving over 200,000 positions by 2005, with the expectation of saving about $11 billion. However, DOD faces significant challenges in launching and completing this magnitude of studies in this timeframe. Depending on the outcomes of these competitions, DOD also could face challenges in overseeing an increased number of contracts.

Few competitive sourcing studies have been planned by other federal agencies. That has the potential to change, however, as federal agencies implement the FAIR Act, which requires federal agencies to identify and publish lists of their commercial activities annually. Our preliminary review of some of the lists has raised questions about how agencies decided which activities to list, and about the usefulness of the lists. While it is difficult to forecast the extent to which listed activities will be the subject of competitive sourcing studies, it is almost certain that any increase in outsourcing will only add to the already challenging contract management workload. Agencies will need to ensure that the acquisition workforce is up to the task.

Past reforms have targeted problems with the acquisition workforce. For example, legislation in 1990 and 1996 established education, training, and experience requirements for entry and advancement in the acquisition career field. Our February 2000 report to this Subcommittee on the implementation of the most recent of these initiatives found that neither of the agencies we reviewed—GSA and the Department of Veterans Affairs—had complete information on the extent to which their acquisition workforces had received required training. In addition, the Office of Federal Procurement Policy had not yet ensured that civilian agencies were collecting and maintaining standardized workforce information, as required by the Clinger-Cohen Act.

Leading private and public organizations realize that their people largely determine their capacity to be successful. They also realize that people are assets whose value can be enhanced through investments such as training. They take a strategic approach to training their people on new practices, and provide customized training targeted to specific needs. Federal agencies need to take a similar approach for acquisition reform to succeed in producing better outcomes.

Conclusion

Far too often, the products and services the government buys cost more than projected, are untimely, or fail to meet expectations. In some cases, agencies wasted billions of dollars on acquisitions that did not improve service to the American public and did not contribute to accomplishing agency missions.

Numerous attempts have been made over the years to improve federal acquisition outcomes, and some progress has been made. Lasting improvements in federal procurement operations offer the potential to save billions of dollars, dramatically improve services to the American public, and strengthen confidence in the accountability and performance of our national government. However, much more needs to be done to achieve real and sustained improvements. It will take time to improve agency procurement operations because the problems we have identified are difficult ones and are deep-rooted in very large programs and organizations. There is much to be learned from the best practices of leading, high-performing private sector organizations. When use of commercial best practices is determined to be appropriate, government agencies should adopt such practices unless there is a compelling reason not to. To ensure that progress continues, sustained management attention and congressional oversight—particularly involving weapons systems, information technology, and human capital issues—will be necessary.

Mr. Chairman, this concludes my prepared statement. I will be happy to respond to any questions you or other Members of the Subcommittee may have.

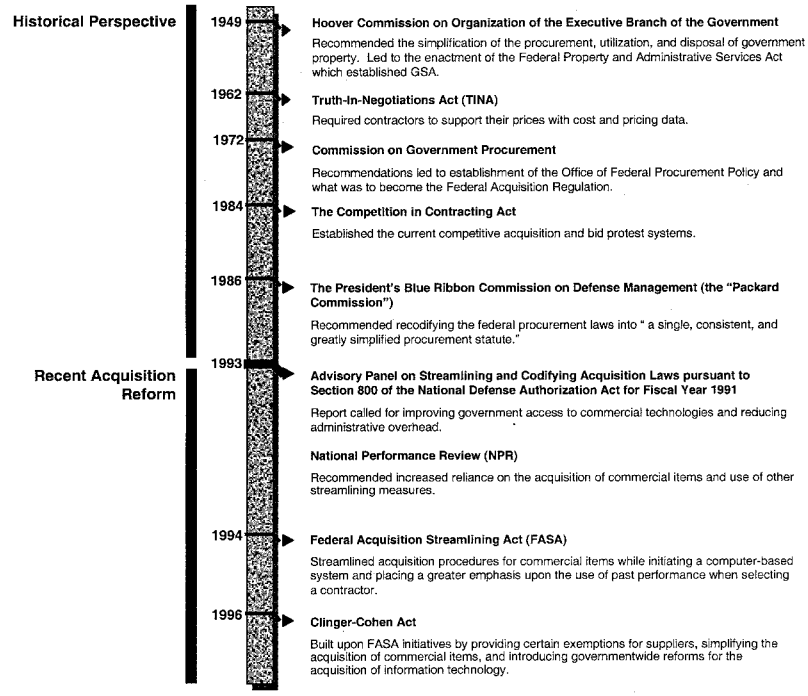
Contact and Acknowledgement

For further contacts regarding this testimony, please contact Henry L. Hinton, Jr., at (202) 512-4300. Individuals making key contributions to this testimony included Johana R. Ayers, Jack L. Brock, Jr., David E. Cooper, Ralph C. Dawn, Jr., Louis J. Rodrigues, David E. Sausville, Gerald Stankosky, Bernard L. Ungar, Adam Vodraska, and William T. Woods.

Attachment I

Timeline of Selected Acquisition Reform Initiatives

Figure I.1: Timeline of Selected Acquisition Reform Initiatives



Source: GAO Analysis of Selected Acquisition Reform Initiatives.

Attachment II

Related GAO Products

Human Capital: Strategic Approach Should Guide DOD Civilian Workforce Management (GAO/T-GGD/NSIAD-00-120, Mar. 9, 2000).

Acquisition Reform: GSA and VA Efforts to Improve Training of Their Acquisition Workforces (GAO/GGD-00-66, Feb. 18, 2000).

Congressional Oversight: Opportunities to Address Risks, Reduce Costs, and Improve Performance (GAO/T-AIMD-00-96, Feb. 17, 2000).

Budget Issues: Effective Oversight and Budget Discipline Are Essential—Even in a Time of Surplus (GAO/T-AIMD-00-73, Feb. 1, 2000).

Competitive Contracting: Preliminary Issues Regarding FAIR Act Implementation (GAO/T-GGD-00-34, Oct. 28, 1999).

Defense Acquisitions: Army Purchased Truck Trailers That Cannot Be Used as Planned (GAO/NSIAD-00-15, Oct. 27, 1999).

Defense Acquisitions: Comanche Program Cost, Schedule, and Performance Status (GAO/NSIAD-99-146, Aug. 24, 1999).

Best Practices: DOD Training Can Do More to Help Weapon System Programs Implement Best Practices (GAO/NSIAD-99-206, Aug. 16, 1999).

Best Practices: Better Management of Technology Development Can Improve Weapon System Outcomes (GAO/NSIAD-99-162, July 30, 1999).

DOD Competitive Sourcing: Lessons Learned System Could Enhance A-76 Study Process (GAO/NSIAD-99-152, July 21, 1999).

IRS Management: Formidable Challenges Confront IRS as It Attempts to Modernize (GAO/T-GGD/AIMD-99-255, July 22, 1999).

Procurement Reform: How Selected Countries Perform Certain GSA Activities (GAO/GGD-99-109, July 15, 1999).

Contract Management: DOD Pricing of Commercial Items Needs Continued Emphasis (GAO/NSIAD-99-90, June 24, 1999).

Customs Service Modernization: Actions Initiated to Correct ACE Management and Technical Weaknesses (GAO/T-AIMD-99-186, May 13, 1999).

National Laboratories: DOE Needs to Assess the Impact of Using Performance-Based Contracts (GAO/RCED-99-141, May 7, 1999).

Air Traffic Control: FAA's Modernization Investment Management Approach Could Be Strengthened (GAO/RCED/AIMD-99-88, Apr. 30, 1999).

Defense Acquisition: Best Commercial Practices Can Improve Program Outcomes (GAO/T-NSIAD-99-116, Mar. 17, 1999).

F-22 Aircraft: Issues in Achieving Engineering and Manufacturing Development Goals (GAO/NSIAD-99-55, Mar. 15, 1999).

Customs Service Modernization: Serious Management and Technical Weaknesses Must Be Corrected (GAO/AIMD-99-41, Feb. 26, 1999).

High-Risk Series: An Update (GAO/HR-99-1, January 1999).

Major Management Challenges and Program Risks: A Governmentwide Perspective (GAO/OCG-99-1, January 1999).

Major Management Challenges and Program Risks: Department of Defense (GAO/OCG-99-4, January 1999).

Major Management Challenges and Program Risks: Department of Energy (GAO/OCG-99-6, January 1999).

Major Management Challenges and Program Risks: National Aeronautics and Space Administration (GAO/OCG-99-18, January 1999).

OMB Circular A-76: Oversight and Implementation Issues (GAO/T-GGD-98-146, June 4, 1998).

Customs Service Modernization: Architecture Must Be Complete and Enforced to Effectively Build and Maintain Systems (GAO/AIMD-98-70, May 5, 1998).

Defense Acquisition: Improved Program Outcomes Are Possible (GAO/T-NSIAD-98-123, Mar. 18, 1998).

Acquisition Reform: Implementation of Key Aspects of the Federal Acquisition Streamlining Act of 1994 (GAO/NSIAD-98-81, Mar. 9, 1998).

National Weather Service: Budget Events and Continuing Risks of Systems Modernization (GAO/T-AIMD-98-97, Mar. 4, 1998).

Best Practices: Successful Application to Weapon Acquisitions Requires Changes in DOD's Environment (GAO/NSIAD-98-56, Feb. 24, 1998).

Defense IRM: Poor Implementation of Management Controls Has Put Migration Strategy at Risk (GAO/AIMD-98-5, Oct. 20, 1997).

Defense Acquisition Organizations: Linking Workforce Reductions With Better Program Outcomes (GAO/T-NSIAD-97-140, Apr. 8, 1997).

High-Risk Series: Information Management and Technology (GAO/HR-97-9, February 1997).

Acquisition Reform: Purchase Card Use Cuts Procurement Costs, Improves Efficiency (GAO/NSIAD-96-138, Aug. 6, 1996).

Best Practices Methodology: A New Approach for Improving Government Operations (GAO/NSIAD-95-154, May 1995).

High Risk Series: An Overview (GAO/HR-95-1, February 1995).

Weapons Acquisition: A Rare Opportunity for Lasting Change (GAO/NSIAD-93-15, Dec. 1992).

Mr. HORN. Mr. Robert J. Lieberman is the Assistant Inspector General for Audits of the Department of Defense. Thank you for coming.

Mr. LIEBERMAN. Good morning. I appreciate the opportunity to testify here today on the always challenging and important subject of defense acquisition management.

Last year, the Department of Defense took 14.8 million purchasing actions. That means that on every working day, 57,000 times on the average working day, someone in the Department of Defense buys something for the taxpayers, whether it be an airline ticket or a nuclear submarine. The challenge, of course, is how does one ensure that the taxpayers are getting their money's worth on 57,000 procurement transactions a day?

The complexity, variety of scale, and frequent instability of defense acquisition programs pose a particularly daunting management challenge. In my written statement, I have attempted to summarize those challenges as well as just a few of the Department's recent reform successes and goals.

Today, I would like to focus on three sets of issues using recent audit results from the reports that are listed in the attachment to my written statement. Those three areas are contracting for services, spare parts pricing, and acquisition work force reductions.

Issues related to defense weaponry and other equipment attract the most oversight emphasis and publicity, yet the annual DOD expenditures for contractor services constitute a huge acquisition program in their own right. In 1992 through 1999, DOD procurement of services increased from $40 billion to $52 billion annually. The largest subcategory of contracts for services was for professional administrative and management support services, valued at $10.3 billion. Spending in this subcategory increased by 54 percent between 1992 and 1999 and probably will continue to grow as DOD outsourcing initiatives continue.

Deliverables from contracts for services often are not as tangible as hardware, such as a missile or even a set of tires. Quantifiable information requirements, performance, and cost frequently are harder to develop and overworked contracting personnel are more likely to give priority attention to equipment procurements than to mundane contracting actions for consulting services or information systems support. Also, except for travel and transportation services, the increased efficiencies derived from e-commerce pertain much more to goods than to services.

So we believe that because of these factors, DOD managers and contracting personnel were not putting sufficient priority during the 1990's on this sector of defense acquisition, which likewise was virtually ignored for the first few years of recent acquisition reform efforts. Consequently, we think the risk of waste in this area is higher than has been commonly realized.

In my statement, I detail the results from two recent audits on DOD service contracts. The first was reported in April 1999 and had to do with multiple-award task order contracts. We audited 156 orders valued at $144 million on 12 multiple-award contracts placed between 1995 and 1998. We found few problems with 32 delivery orders, for goods but significant problems with 124 task orders for $88 million worth of services. Specifically, contracting offi-

cers awarded individual task orders without regard to price, even though price also was not a substantial factor in the original selection of vendors for the multiple-award contract. As a result, higher-priced contractors were awarded 36 of 58 task orders that were competed. We identified $3 million in additional cost resulting from awarding orders to contractors with higher-priced bids.

Second, contracting officers directed work and issued orders on a sole-source basis for 66 task orders valued at $47 million without providing the other contractors a fair opportunity to be considered. Only 8 of the 66 orders, valued at $8.8 million, had valid justification for sole source award; 11 of the 66 had no justification at all. As a result, DOD almost certainly paid higher prices than would have been the case if competition had been sought.

These problems were caused by a variety of factors, including difficulty in establishing pricing in the multiple award contracts at the time of award because requirements for the number and scope of subsequent task orders were not well understood. Contractors also were not sure of the amount of work they would receive, making it hard to forecast costs.

Regarding the failure to compete task orders, I believe the causes were somewhat vague regulations, pressure to make task order awards rapidly, and perhaps excessive pressure or excessive workload on some contracting offices deterred them from questioning a sole source preference input from program managers.

The other audit covered 105 Army, Navy, and Air Force contracting actions valued at $6.7 billion for a wide range of professional administrative and management support services amounting to about 104 million labor hours, which is the equivalent of just over 50,000 labor years. We were startled by the audit results because we found problems with every single one of the 105 actions audited.

Problems pertained to every aspect of the purchasing process. They are listed in my statement. I think the ones that are most notable are, first, failure to define requirements, which clearly you have to do in order to write a definitive statement of work and to choose the appropriate contract type. Second, unattributed, undated, unexplained, and not demonstrably independent or well thought out government cost estimates. Third, cursory technical reviews. Fourth, inadequate competition, and so on as listed in my statement.

It was impossible to quantify the monetary impact of these deficiencies, but clearly, waste was occurring. For example, sole source cost-type contracts that placed a higher risk in the government continued without question for the same services for inordinate lengths of time, 39 years in one extreme case, the pricing was questionable. We also observed that there were no performance measures being used to judge the efficiency and effectiveness of the services rendered.

The second major area I would like to discuss briefly is spare parts pricing. In early 1998, we began a series of audit reports principally in the aviation spares area. As you will recall, this has been a controversial area for many years in the defense procurement arena. The Department is still in a transition mode, transitioning from the pre-acquisition reform legislation method of

doing things to what we have now, which has much more emphasis on buying commercial products and using commercial buying mechanisms. That transition still has not been successfully made. We are still in a learning mode. Mr. Chairman, you mentioned the lack of training in the acquisition work force and that is certainly a key factor in this area.

Over the past year, we have issued five additional audit reports. One was good news, four were not. The two most recent ones are still somewhat restricted in terms of what I can discuss in public at this point because we have not worked through, with the contractor, what is proprietary data and what is not. But suffice to say DOD is still paying excessive prices for spares and has not quite figured how to calculate the cost-benefit of different types of contractual arrangements, which involve buying not just the part itself but also things like inventory management and direct vendor delivery capability.

The third area I will stress today relates to the acquisition work force. DOD has cut its acquisition work force in half during the decade of the 1990's, from 460,516 to 230,556 as of September 1999, and further cuts are likely. If workload had been reduced proportionately, eliminating half of the acquisition positions could be regarded as a positive achievement. Unfortunately, this has not been the case. The value of DOD procurement actions over the decade decreased only about 3 percent. The number of procurement actions, which is more important, increased by about 12 percent. The greatest amount of work for acquisition personnel occurs on contracting actions over $100,000 and the actual number of those actions increased by about 28 percent.

We surveyed 14 of the 21 major acquisition organizations and found this growing imbalance between resources and workload is a major concern. Acquisition personnel told us that the adverse consequences of 10 years of constant downsizing, hiring limitations, and resulting promotion slowdowns include a range of staff management problems and performance deficiencies. Again, those are detailed in my statement and in our report on the acquisition work force reductions.

We have been pleased to see growing awareness over the past year in both the Congress and the Department about the work force acquisition problem. Many innovative and, I think, constructive things are being done on the training front, and that is vital. However, we also have to get a handle on properly sizing the work force. It has become an acquisition goal in and of itself to reduce the acquisition work force.

We think that is putting the cart before the horse. We need to better understand what the workload in the acquisition offices actually consists of and what are the impacts of acquisition reforms on that workload. It has been assumed that streamlining measures could make up for reducing half of the work force, and that has proven not to be true. So we need a better handle on how many people with what skills should be where to manage this process efficiently.

With that, I will close. I apologize for running slightly over, but I cannot talk as fast as Butch can.

Mr. HORN. Thank you. That was very helpful and I am glad you did take the time.

[The prepared statement of Mr. Lieberman follows:]

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March 16, 2000

Statement by

Robert J. Lieberman

Assistant Inspector General for Auditing
Department of Defense

before the

Subcommittee on Government Management, Information and Technology
House Committee on Government Reform

on

Defense Acquisition Management

March 16, 2000

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to testify before you today on the always challenging and important subject of Defense acquisition management. As you are well aware, the cost, quality and need for military equipment and supplies have been contentious issues in this country for over 200 years. In FY 1999, the Department of Defense bought about $140 billion in goods and services, in 14.8 million purchasing actions. The complexity, variety, scale and frequent instability of Defense acquisition programs pose particularly daunting management challenges. Today, those challenges are centered more than ever on the need to strike difficult balances, such as:

- maintaining technological superiority, but not over designing weapon and information systems so that they are unaffordable;

- expediting the development and production of systems so that our forces have the best available equipment, without rushing untested systems prematurely into production and use;

- achieving standardization to reduce costs and logistics problems, without stifling innovation and short changing genuinely unique requirements;

- purchasing supplies quickly to ensure rapid response to the needs of the operating units, without paying exorbitant prices or over buying because of poor analysis of requirements and prices;

- ensuring high quality for all material on which our military forces depend, without over prescribing details related to design, content and production methods;

- improving Defense acquisition results by learning from best practices in the commercial sector, without trying to adopt practices that may not be appropriate or readily adaptable to the public sector;

- Reducing the red tape and streamlining overly bureaucratic processes without weakening essential management controls and de-emphasizing due diligence in handling public resources;

- striving for rapid and far-reaching acquisition process improvements, without overwhelming the workforce with changes that are not accompanied by timely and effective training; and

- attempting to minimize the cost of Defense support functions, without reducing the workforce past the point where it can effectively handle its workload.

The focus for concerns regarding Defense acquisition shifts periodically. During the 1970's, the principal problems were cost overruns on major weapon system contracts and huge contractor claims. In the 1980's there were major issues concerning the adequacy of testing, contractor fraud, overpriced spare parts and corruption involving Navy procurement officials (the Ill Wind scandal). In the 1990's there were the A-12 Intruder program failure; increasing concerns about the inordinate time needed to field new systems; growing dissatisfaction with perceived over regulation and red tape; concerns over the affordability of systems with high per unit costs; imbalances between spending for investments, overhead support and operations; and contraction of the Defense industrial base.

Acquisition Reform. The Department of Defense has been seeking acquisition process improvements almost continuously for at least 20 years. Likewise, Congress legislates changes in both program content and procurement practices almost annually. However, there has been intensified interest and effort during the past several years. The Department has initiated an unprecedented number of major improvement initiatives across the spectrum of DoD activities, including at least 40 significant acquisition reform initiatives. The Congress has passed very important reform legislation, including the Federal Acquisition Streamlining Act of 1994 and the Clinger/Cohen Act of 1996. The Department has made notable progress in acquisition reform and also set several commendable goals. Examples include:

- de-emphasizing overly detailed military specifications and standards;

- using credit cards for nearly 9 million small purchases in FY 1999;

- pushing for public and private sector implementation of public key infrastructure technology to enable secure electronic commerce;

- replacing multiple, inconsistent, government-unique requirements imposed on contractors holding more than one Defense contract with common, best, facility-wide processes; and

- establishing aggressive weapon system unit cost and total ownership cost targets, which are 20 to 50 percent below historical norms and will be challenging to meet.

I assume that other witnesses today will discuss additional initiatives.

Inspector General Role in Acquisition Reform. Since its establishment in 1982, the Office of the Inspector General, DoD, has issued hundreds of audit reports identifying problems in Defense acquisition programs and opportunities for improving efficiency and effectiveness. In addition, the principal focus of the Defense Criminal Investigative Service, the criminal investigative component of the Office of the Inspector General, DoD, always has been procurement fraud, in its various forms. Based on the many risks, vulnerabilities and problems identified by this audit and investigative effort, the Office of the Inspector General, DoD, has been in the forefront of those calling for improved management across the spectrum of Defense

acquisition program activities, from initial requirements determination through purchasing and delivery of goods and services.

Most acquisition audits and investigations provide insight into how well individual programs and contracts are managed. Many of them also provide independent feedback on how well the Department's overall acquisition policies and applicable laws or regulations are being implemented, and whether they are having the intended effect. Audits are a particularly useful tool for verifying that reported performance information is accurate and previously identified problems have been corrected.

Unfortunately, in recent years our oversight of Defense acquisition has been severely constrained by resource shortfalls and conflicting priorities. In testimony last month before the House Budget Committee, the Deputy IG expressed concern that audit coverage has been inadequate in nearly all Defense management sectors that we and the General Accounting Office have identified as high risk areas.

The DoD needs a broad, systematic program of comprehensive internal of acquisition programs, but does not have one. Currently, less than ten of the several hundred weapon system

projects are being comprehensively reviewed by DoD internal auditors each year. The same holds true for the 79 major information system development and modification projects and the hundreds of smaller projects in the information technology area. The Department spent $51.8 billion for consultants and other support services in FY 1999, yet there have been only a few recent internal audits on management controls over contracting for services. Finally, there is limited independent information available on the progress of the 40 reform initiatives and the need for other initiatives.

The heavy workload created by the successful DoD Year 2000 conversion effort, which my office supported with over 180 audits, is now behind us and we are trying to redress the imbalances in coverage caused by that extraordinary effort. There continue to be conflicting priorities for audits, such as information security, readiness issues and financial reporting. Last year, the DoD decided not to proceed with most of the planned continued reduction of the IG budget, which had already been reduced by 26 percent since 1995. Unfortunately, the appropriations committees cut our FY 2000 request, which hampers our ability to do more in vital areas like acquisition. We hope to be able to better explain our resource situation this year

and to achieve congressional support of our FY 2001 budget request.

In addition to audit and investigative efforts, the IG role in acquisition management improvement includes reviewing all proposed legislative and regulatory changes. The Department has been generally responsive to our advice on such matters and congressional committees also request our views on acquisition legislation issues on a routine basis.

To study acquisition issues, identify opportunities for reform, suggest specific actions, plan implementation strategies or monitor progress, the Department often forms cross-organizational teams and task forces. Assisting those efforts is a high priority for us. Senior audit personnel currently are participating as official team members or advisors for 16 acquisition or logistics reform teams. They include the Acquisition Reform Senior Steering Group, Acquisition Deskbook Working Group, Joint Contracting Pilot Program, and a team working on long term pricing arrangements for spare parts.

Special Emphasis Areas. There are a myriad of challenges and potential issues inherent in the processes for deciding what force structure is needed to implement the national security

strategy; what weapon systems are needed to assure success in combat; what supporting information systems, supplies and other logistical support are needed; what the required goods and services should cost; what is affordable; what acquisition strategy would be best; what prices are reasonable; and so forth. Today I would like to focus on three of those many sets of issues, using recent audit results from the reports that are listed in the attachment to this statement. Those three areas are contracting for services, spare parts pricing and acquisition workforce reductions.

Contracting for Services. Issues related to Defense weaponry and other equipment attract the most oversight emphasis and publicity, yet the annual DoD expenditures for contractor services constitute a huge acquisition program in their own right. From FY 1992 through FY 1999, DoD procurement of services increased from $39.9 billion to $51.8 billion annually. The largest sub-category of contracts for services was for professional, administrative, and management support services, valued at $10.3 billion. Spending in this sub-category increased by 54 percent between 1992 and 1999. It probably will continue to grow as outsourcing initiatives expand.

Deliverables from contracts for services often are not as tangible as hardware, such as a missile or even a set of tires. Quantifiable information on requirements, performance and costs frequently is harder to develop, and overworked contracting personnel are more likely to give priority attention to equipment procurements than to mundane contracting actions for consulting services or information systems support. Also, except for travel and transportation services, the increased efficiencies derived from e-commerce pertain much more to goods than to services. We believe that, because of these factors, DoD managers and contracting personnel were not putting sufficient priority during the 1990's on this sector of Defense acquisition, which likewise was virtually ignored for the first few years of recent acquisition reform efforts. Consequently, we think the risk of waste in this area is higher than has been commonly realized.

The awareness of the need for more emphasis on services contracts has been growing over the past year, in part because of two major audits, whose results I would like to summarize for you.

Multiple Award Task Order Contracts.

The Federal Acquisition Streamlining Act authorized agency heads to enter into multiple award delivery and task order contracts for procuring goods and services. Multiple award contracts occur when two or more contracts are awarded from one solicitation. Generally these contracts have broad scopes and dozens of subsequent task orders are awarded by the Government over the life of the contract. The Act established a general preference for using multiple awards and mandates their use for advisory and assistance services contracts exceeding $10 million and 3 years duration. The Act also stipulates that contractors on a multiple award arrangement are to be provided a "fair opportunity to be considered" for individual task and delivery orders over $2,500.

Multiple award contracts are an excellent tool for avoiding duplicative solicitations and speeding up the contracting process. Their advantages are degraded, however, if the individual task and delivery orders are inappropriately sole-sourced or poorly priced.

In April 1999, we reported the results of an audit of 156 orders, valued at $143.7 million and placed on 12 multiple award

contracts between 1995 and 1998. We found few problems with delivery orders for goods, but significant problems with task orders for services. Specifically:

- Contracting officers awarded task orders without regard to price, even though price also was not a substantial factor in the selection of vendors for the initial multiple award contract. As a result, higher-priced contractors were awarded 36 of 58 task orders that were competed. We identified $3 million in additional costs resulting from awarding orders to contractors with higher-priced bids.

- Contracting officers directed work and issued orders on a sole-source basis for 66 task orders, valued at $47.2 million, without providing the other contractors a fair opportunity to be considered. Only 8 of the 66 orders, valued at $8.8 million, had valid justification for sole-source award. As a result, DoD almost certainly paid higher prices than would have been the case if competition had been sought.

These problems were caused by a variety of factors, including difficulty in establishing pricing on the multiple award contracts at the time of award, because requirements for the

number and scope of subsequent task orders were not well understood. Contractors also were not sure of the amount of work they would receive, making it hard to forecast costs. Regarding the failure to compete task orders, I believe the causes were somewhat vague regulations, pressure to make task order awards rapidly, and perhaps excessive workload in some contracting offices.

In response to the audit findings, the Director for Defense Procurement has been gathering information from the Military Departments on the need to establish a competition goal for task orders on multiple award contracts--we had suggested that a goal of 90 percent would be advisable. The Director also issued a memorandum in April 1999 calling the audit results to the attention of senior acquisition officials. The Congress took action by mandating in Section 804 of the National Defense Authorization Act for FY 2000 that the Federal Acquisition Regulation be revised to improve guidance on the appropriate use of task order and delivery order contracts.

Other Problem Indicators. In light of the problems found by the audit on multiple award task order contracts and various other, more narrowly scoped audits, we undertook a comprehensive audit last year to look at services contracts. We reviewed

105 Army, Navy and Air Force contracting actions, valued at $6.7 billion, for a wide range of professional, administrative and management support services amounting to about 104 million labor hours, or 50,230 staff years.

We were startled by the audit results, because we found problems with every one of the 105 actions. In nearly 10 years of managing the audit office of the IG, DoD, I do not ever recall finding problems on every item in that large a sample of transactions, programs or data. The specific problems included:

- Failure to use prior history to define requirements (58 actions);
- Poor Government cost estimates (81 actions);
- Cursory technical reviews (60 actions);
- Inadequate competition (63 actions);
- Failure to award multiple award contracts (7 actions);
- Incomplete price negotiation memorandums (71 actions);

- Inadequate contract surveillance (56 actions);

- Lack of cost controls (21 actions);

It was impossible to quantify the monetary impact of these deficiencies, but clearly waste was occurring. For example, sole-source cost-type contracts that placed a higher risk on the Government continued without question for the same services for inordinate lengths of time--39 years in one extreme case--and pricing was questionable. We also observed that there were no performance measures in use to judge the efficiency and effectiveness of the services rendered.

We made numerous recommendations to management to address these problems, stressing the paramount need for more effective training. Many cost-reimbursable contracts for repetitive tasks should be converted to more economical fixed price contracts. We also endorsed establishing centers of excellence, which in this case would be specialized contracting organizations or cadre, as a means of developing in-depth expertise on the services markets and on services contracting techniques. We understand that this concept has proven highly beneficial for private sector businesses that purchase large volumes and varieties of contractor services. The Department has not yet

informed us of its position on all of our recommendations, but the partial responses to date have been positive.

In fact, recently we have noted a welcome upswing in interest and activity regarding contracting for services and we are assisting in efforts such as developing a Performance Based Service Acquisition Training Class. We agree with the Federal Procurement Executives Council that performance based acquisition strategies should be heavily emphasized when contracting for services and we support the putative goal of making half of services contracts performance based by 2005. We welcome DoD plans for putting information such as a guide for performance based service acquisitions on the web and establishing a baseline and measures for tracking progress on expanding the performance based approach.

Continuing Spare Parts Pricing Issues. In early 1998, we began issuing a series of audit reports on prices paid for aviation spare parts and equipment. As you may recall from congressional hearings at the time and intermittent publicity since, we found that prices paid under new, commercial type contracting arrangements were considerably higher than was the case when the same items were procured previously under "traditional" Defense contracts or ordering agreements. In one case, DoD paid

modestly discounted, but still excessive, contractor catalog prices that were $4.5 million (280 percent) higher than fair and reasonable prices for $6.1 million of commercial items from one supplier.

Although the Department has been generally responsive to the problems that we have identified on individual contracts, new examples continue to surface as we do additional audits. We have issued 5 more reports on spare parts in the last two years. One report provided good news and the other four described problems. Most recently, in a pair of reports issued a few days ago, we discussed pricing in a prototype contract for supply support from what the DoD refers to as a virtual prime vendor. Under this concept, one vendor anticipates DoD needs for a specified list of commodities and assumes responsibility for having inventory on hand to meet those needs, using a range of modern commercial business practices and techniques. Theoretically, considerable savings should result from shifting the burden of carrying inventory to the vendor.

As with many prototypes, the terms of this particular contract needed some adjustments. The audit indicated that DoD was paying 38 percent more than necessary for a variety of aviation components and spares. The most egregious example was a

propeller blade heater for C-130 and P-3 aircraft. We calculated that the $1.4 million paid in 1998 for blade heaters was from 124 to 148 percent more than fair and reasonable prices. Although management did not agree with many of our exact calculations, the Department fully agreed with our recommendation to use an entirely different contracting approach, namely, a long-term strategic supplier alliance. In fact, initial meetings with the contractor to explore that approach were held during the audit.

There are a variety of problems to be addressed in spare parts procurement. First, the Government must learn to be a smarter buyer in terms of pooling its purchases to maximize its market leverage, enable in-depth market research by specialists and use economic order quantity approaches where feasible. Second, it needs to do everything possible to maximize competition and avoid sole-source situations. Virtually all of the pricing problems identified by our audits arose on sole-source contracts. Third, it needs to consider root causes of poor purchasing decisions: under staffing in DoD procurement offices, unreliable inventory data and inadequate training. Fourth, it needs to pursue long term pricing arrangements with key suppliers, with mutual incentives for price reduction. Fifth, it should use the tools already made available by the

Congress--including the ability under the Truth in Negotiations Act to obtain certified contractor cost data--to ensure fair pricing in sole-source procurements. For commercial items, to which the Truth in Negotiations Act does not apply, contracting officers can still negotiate good prices on the basis of uncertified cost data. Some DoD acquisition officials discourage them from doing so, but offer no practical alternatives for situations where no competitive market forces exist to drive down prices.

Acquisition Workforce Issues. Having made previous references to problems caused by lack of contracting workforce capacity and training, I would like to call your attention to our Report on the DoD Acquisition Workforce Reduction Trends and Impacts, dated February 29, 2000.

The DoD reduced its acquisition workforce from 460,516 in September 1991 to 230,556 in September 1999 and further cuts are likely. If workload had been reduced proportionally, eliminating half of the acquisition positions could be regarded as a positive achievement. Unfortunately, this has not been the case. From FY 1990 through FY 1999, the value of DoD procurement actions decreased from $144.7 billion to $139.8 billion, about 3 percent. The number of procurement

actions increased from 13.2 million to 14.8 million, about 12 percent. The greatest amount of work for acquisition personnel occurs on contracting actions over $100,000, and the annual number of those actions increased from 97,948 to 125,692, about 28 percent, from FY 1990 to FY 1999.

We surveyed 14 of the 21 major acquisition organizations and found this growing imbalance between resources and workload is a major concern. Acquisition personnel told us that the adverse consequences include:

- skill imbalances (9 organizations), and
- insufficient staff to manage requirements efficiently (9 organizations),
- increased program costs resulting from contracting for technical support versus using in-house technical support (7 organizations),
- personnel retention difficulty (6 organizations),
- reduced scrutiny and timeliness in reviewing acquisition actions (4 organizations),

- increased backlog in closing out completed contracts (3 organizations),

- lost opportunities to develop cost savings initiatives (2 organizations).

I believe that this impact list is conservative and, if further downsizing occurs, these staffing management problems and performance shortfalls can only get worse.

Likewise, there is cause for serious concern in the likelihood of the DoD acquisition workforce losing about 55,000 experienced personnel through attrition by FY 2005 and in the overall disconnects between workload forecasts, performance measures, productivity indicators, and plans for workforce sizing and training.

In a general sense, DoD acquisition workforce reductions are part of the overall downsizing of the Federal and Defense workforce. However, Congress has singled out the DoD acquisition population for separate downsizing emphasis, while allowing the Secretary of Defense considerable latitude in implementing reductions. We hope that our report will

assist both the Congress and the Department to take stock of the long-term human capital requirements in this crucial area. The Department's response to the report was positive and there appears to be growing awareness of the serious risks related to the Defense acquisition staffing outlook.

A reasonably sized, well-trained and highly motivated workforce is by far our best safeguard against inefficiency and waste.

Conclusion. The Office of the Inspector General, DoD, continues to be a strong supporter of acquisition reform. I appreciate your interest in our reports and views on these challenging matters. This concludes my statement.

Acquisition Audit Reports
By Inspector General, DoD
Mentioned in this Testimony

99-026, Commercial Spare Parts Purchased on a Corporate Contract, October 30, 1998. The DoD paid a 54.5 percent premium, $3.2 million, on the audited contract for aviation spares in fiscal years 1996 and 1997, but did not use the services offered at the higher prices.

99-116, DoD Use of Multiple Award Task Order Contracts (4/2/99). The audit was requested by Senator Carl Levin. Task orders were awarded without sufficient consideration to price on 36 of 58 audited task orders. Only 8 of 66 audited sole-source task orders had valid sole-source justifications.

99-217, Sole-Source Commercial Spare Parts Procured on a Requirements Type Contract (7/21/99). A cost-based requirements contract for aviation spares was appropriately priced.

99-218, Sole-Source Noncommercial Spare Parts Orders on a Basic Ordering Agreement (7/21/99). The DoD paid $4.9 million (18 percent) more than fair and reasonable prices for $32.2 million of aviation spares on a basic ordering agreement during fiscal years 1996 through 1998.

00-088, DoD Acquisition Workforce Reduction Trends and Impacts (2/29/00). The Department needs to reconsider the appropriate size and skills mix of the acquisition workforce, which has been cut in half without significant workload reduction and faces future skills shortages.

00-098, Spare Parts and Logistics Support Procured on a Virtual Prime Vendor Contract (3/8/00). A long term alliance arrangement would be preferable to the contractual terms under which overpriced aviation spares were purchased in 1997 and 1998. (Report currently available only in a For Official Use Only version.)

00-099, Procurement of the Blade Heaters for the C-130 and P-3 Aircraft (3/8/00). This report discusses one of the overpriced spare parts procured under the contract that is evaluated in Report No. 00-098. (Report currently available only in a For Official Use Only version.)

00-100, Award and Administration of Contracts for Professional, Administrative and Management Support Services (3/10/00). The Military Departments needed to put more emphasis on all aspects of procurement planning, contracting and contract administration for services.

Mr. HORN. Mr. Stan Z. Soloway, Deputy Under Secretary for Acquisition Reform, Department of Defense. Mr. Soloway, we are glad to have you here.

Mr. SOLOWAY. Thank you, Mr. Chairman. I speak much faster than Mr. Hinton and I am afraid I am still going to go longer than he did, but I will do my best. And also, if I could, I would like to share in your welcome to the Front Line Forum. It is a group that Ms. Lee and I have the pleasure of chairing, and I think she would agree that we get some of the best insight and information about what is really going on on the front lines from these terrific professionals and we are delighted that they are here, as well.

Mr. Chairman, I want to thank you for the opportunity to share with you our views on acquisition management and reform, and what I would like to start out by saying is that I think it is important to be clear about one thing. Acquisition reform, while not where we want it to be, has demonstrated repeatedly that we can do business better and smarter.

We can look to the Joint Direct Attack Munitions, which performed so flawlessly in Kosovo, and the cost of which, thanks to aggressive program management and innovation, made possible largely by the acquisition reforms of the last 7 years, is now less than half the cost of original projections.

We can also look to the PLGR field radio, a largely commercial capability that is not only far less costly than its military-unique predecessor but also requires only one operator as opposed to two and includes significantly enhanced capabilities.

We should also look at the new Virginia Class attack submarine, which through the use of commercial technologies, open systems architectures, and simplified requirements has led to a reduced per-ship cost, and most importantly, a projected 30 percent reduction in total ownership or life cycle costs over the comparable SEAWOLF.

The avionics circuit cards for the F–22 are being produced largely on a commercial production line with a projected cost that is more than 50 percent less than would otherwise be the case.

The list does go on. The single process initiative which facilitates our migration from unnecessary government-unique standards to commercial performance standards has now yielded cost savings and avoidance exceeding a half-billion dollars and we have only just begun. The Commercial Support Savings Initiative [COSSI], and the use of other transactions authorities have enabled the Department to access dozens of technology solutions and providers that have not previously been able or willing to do business with us.

In short, much has changed and continues to change for the better. I am often asked how we are doing with acquisition reform and my usual answer is, pretty well. But as I noted earlier, we have a long way to go and cannot afford to let up on our commitment to making change. Let me mention three key areas.

First, we all know that the typical cycle time for a major system, from concept to operation, is too long, usually 12 to 15 or more years. Such long cycle times drive up costs, often suboptimize the system itself, and keeps new needed capability out of the hands of those who need it most, our men and women in uniform.

Among the key factors that drive cycle time are the requirements themselves, as Mr. Hinton pointed out. Traditionally, requirements have been too inflexible, often included exceptional technology reaches, and had too little cost sensitivity.

Today, however, we are working closely with our colleagues on the joint staff to put in place a model for the front end of the acquisition process. This model will place a high priority on more flexibility, open systems, and greater cost sensitivity in the requirements documents, thus enabling us to make the kind of intelligent tradeoff decisions driven by both technology maturity and cost that is so critical to reducing cycle time and getting capability into the field faster.

Second, we have made an unprecedented commitment to enhancing the quality of our acquisitions of services. As previous witnesses have already noted, our reliance on services as opposed to products has greatly increased and we fully recognize that we have not focused nearly enough attention on providing training and tools to our work force in this critical area. We do, however, have numerous initiatives in this area underway that I think are both important and highly promising.

For instance, Under Secretary Gansler will soon issue new policy that will require a much greater emphasis on performance-based services acquisitions than has previously been the case, including a requirement that 50 percent of all services acquisitions be performance-based by 2005, as recommended by the Inspector General. This policy will require aggressive and accelerated training, planning, metrics, and more, and I think we can all agree that performance-based services acquisition represents a critical link to solving many of the issues before us.

In addition, just 2 weeks ago, we launched a major new performance-based services training initiative developed for us by the National Contract Management Association and the National Association of Purchasing Management, which is available at a relatively nominal cost to all elements of our work force, from the requirers to acquirers, financial oversight, and other key elements of our work force. Moreover, this training, while web-based, is also designed for live, just-in-time team training of the kind we believe can be most effective.

We are also putting the finishing touches on a performance-based services guidebook, as well as a series of performance-based services templates, that seek to demonstrate the ways in which a performance-based approach can work in a wide range of areas, from low-tech to high-tech requirements. These initiatives will, we believe, significantly improve our performance in the acquisition of services of all kinds, including information technology, professional and advisory and assistance services, and more.

Our reliance on services also extends, as Mr. Lieberman pointed out, to those areas where we used to purchase products, particularly in the spare parts arena. Where we purchased a part 4 or 5 years ago, today, we are increasingly purchasing a service, a service that includes a range of activities from inventory control to warehousing and much more. In short, in assessing such vehicles, one can no longer simply compare a unit price from yesterday to

current spare parts prices since what we are actually buying is very different.

In the case of the contract referenced by Mr. Lieberman, for instance, this strategy has resulted in a much higher parts availability rate and 30 percent reductions in our repair turnaround times, which then translate into higher mission capability, and in commercial parlance, a much greater availability of our critical capital assets, all of which has a great value to us. The independent business case analysis prepared for the Defense Logistics Agency looked at all of these factors and concluded that this contract, assuming high levels of performance which we are now seeing, would save millions of dollars with much more in less tangible value.

This is not to say that within a given contract, which could encompass thousands of items, the prices of some individual items might not be unreasonable, and I believe DLA, in response to previous Inspector General reports which have pointed out some of these problems, have put in place better mechanisms for detecting such price rises and a process for segregating and negotiating better prices for those items.

In addition, in the last 18 months, additional training and commercial supply chain management which speaks to these very issues has been launched and more than 3,400 members of our work force have now taken that training.

I believe, therefore, that we are making real progress in this important area and we will continue to aggressively address it and the full range of services acquisitions. The key is not so much of what we do, and as noted by each of my colleagues today, is and always will be our work force and how well we do in preparing them for the challenges ahead. We are committed to meeting that challenge.

Indeed, our acquisition work force has been reduced by about 50 percent over the last 10 years, and today we face the prospect that another 50 percent of that work force will be eligible to retire within the next 5 years. The problem is further exacerbated by the very real shortages in the marketplace of many of the critical technology skills, including those now required to optimize business processes and the extraordinary competition in the marketplace for those skills.

This demographic reality presents many challenges, as noted by others this morning. But it also offers an extraordinary opportunity to fundamentally transform the culture of the world's largest buying organization, as I believe the General Accounting Office has pointed out. That transformation will only take place, however, if we do our jobs right.

To that end, let me conclude my testimony this morning with a few examples of what we are doing in this most crucial of arenas. We are launching a major future work force initiative to develop a career development and management process to facilitate the kind of multi-disciplinary work force that the future work environment will require. This initiative seeks to synthesize the work we have done over the past 2 years in both identifying the critical attributes of our future work force and assessing our current career development, education, and training programs, and will also focus

on the critically important challenges associated with hiring, retention, and developing future leaders.

At the same time, we are reengineering much of the formal training and education provided to our work force, primarily through the Defense Acquisition University. This reengineering includes a much greater emphasis on business and commercial practices training, a more integrated approach to our training paths, and more diverse training opportunities.

We are expanding our assistance to the work force, as well, in the area of continuous learning. Our work force will soon have access to a web-based catalog of continuous learning opportunities from inside and outside of government, and we will soon put in place a core curriculum for continuous learning which will direct our work force to ongoing refreshment and training in critical areas as part of their continuous learning requirement.

In addition, we are working with the services and the defense agencies to put together a widely accessible knowledge management system that, like the best in the commercial sector, will create within the Department a virtual learning enterprise where training, best practices and templates, lessons learned, and more are available on a real-time basis to any member of our work force.

And this past year, we opened the Change Management Center. Modeled after the best in class in the commercial world, the role of the CMC is to assist with the very daunting challenges of the change process itself and to, at the same time, provide a disciplined, leadership driven, and empowered capability to accelerate the pace of change.

Mr. Chairman, the progress we have made is very significant, but our need to move ever more aggressively forward remains. The dynamics and pace of the technology marketplace, the changing face of our mission requirements, the need we have for speed and agility in business and on the battlefield all require us to do so. Achieving our goals will take perseverance, commitment, new and innovative training, and education. We remain committed to the long haul and are equally committed to continuing our vibrant partnership with the Congress as together we move forward. The imperatives are clear and we have no choice but to succeed.

That concludes my oral statement this morning, sir, and I would be happy to answer any questions.

Mr. HORN. Thank you very much.

[The prepared statement of Mr. Soloway follows:]

TESTIMONY OF

STAN Z. SOLOWAY
DEPUTY UNDER SECRETARY OF DEFENSE
(ACQUISITION REFORM)
&
DIRECTOR, DEFENSE REFORM INITIATIVE
UNITED STATES DEPARTMENT OF DEFENSE

BEFORE THE
HOUSE OF REPRESENTATIVES
GOVERNMENT REFORM COMMITTEE
SUBCOMMITTEE ON
GOVERNMENT MANAGEMENT, INFORMATION AND TECHNOLOGY

MARCH 16, 2000

Mr. Chairman, members of the committee, and staff, it is a great pleasure for me to be here today, and I thank you for this opportunity to discuss with you our continued progress with and future focus for, acquisition reform.

Acquisition Reform began to take shape some seven years ago, in a vital and rewarding partnership between the Department and the Congress. The passage of the Federal Acquisition Streamlining Act, or FASA, sent a powerful message about the common commitment of the Congress and the Administration to meaningful, long lasting change in the way we conduct our business.

Another key legislative product, the Clinger-Cohen Act, which furthered acquisition reform, particularly in the area of information technologies, again signaled the common vision and commitment of the Congress and the Department. Since the passage of Clinger-Cohen, we have also completed an extensive rewrite of key elements of the Federal Acquisition Regulations, all with an eye to improving communications between customer and supplier, accessing commercial technologies and availing the government of maximum flexibility to pursue the best and most innovative solutions available.

The Department has had many successes in implementing various acquisition reform initiatives. Let me start this morning by mentioning just a few that represent success stories of their own as well as provide windows to the future we believe is before us.

One excellent example is the Joint Direct Attack Munition, which performed so flawlessly in Kosovo....designated as an acquisition pilot program, JDAM was originally expected to cost in excess of $40,000 per unit; but through a combination of acquisition reforms and focused, innovative program management, we can now purchase JDAM for less than half that.

Then there is the PLGR field radio...this radio, purchased largely through the commercial buying authorities contained in FASA, replaces a previous field radio, built to extensive military specifications, that weighed over 30 pounds, required two operators, had only one channel and cost us thousands of dollars per unit...PLGR on the other hand, requires only one operator, has five channels, weighs just over two pounds...and costs less than a thousand per unit.

Today, avionics for the F22 are being produced largely on a commercial line at TRW...thus saving the Department significant resources that would have had to be devoted to unique development and production facilities. Moreover, the reliability testing on those avionics have demonstrated excellent results...and costs for the avionics appear to be significantly lower than expected, 55%-70% less than their military standardized counterpart.

Getting away from military unique requirements, where possible, is our goal. For instance, aircrews must wear specially designed boots to protect them in the often hazardous, military unique environment. In preparing to buy a new boot for our aircrews, the Defense Logistics Agency (DLA) and the Air Force first did extensive market research to locate commercial offerors. The candidate boots were then subjected to fire resistant and thermal protection testing to simulate the stressing environment of the boots. Under the old system, it would have taken 18 months just to develop and approve the military specification before the military unique boot could be tested. Today, DLA and the Air Force are purchasing this new commercially manufactured boot.

The Navy's New Virginia Class Attack Submarine (NSSN) used acquisition reform to pave the progress towards early lead ship construction in FY 1998. Key to the success of the program has been the use of Integrated Product and Process Development Teams that ensure the most efficient design early in the development process. The use of open systems architecture and insertion of commercial-off-the-shelf (COTS) technologies resulted in savings of $24 million. By simplifying

specifications, using appropriate commercial specifications and reducing the number of drawings required by the government, the Navy will benefit from a cost avoidance of $30 million per ship. In the area of total ownership costs, the Virginia Class will operate at a 32% lower cost then the comparable SEAWOLF.

We created the Single Process Initiative (SPI) as a means of eliminating unnecessary government unique process requirements at defense manufacturing facilities and replacing them with commercial, performance standards instead. From quality systems, to soldering, wiring harnesses, packaging, and more, SPI has achieved cost savings and cost avoidance well in excess of $500 million...and we have only just begun.

Thanks again to Congress's support for key legislative groundbreaking innovations such as the Commercial Operations and Support Savings Initiative (COSSI) and Other Transaction Authority, we engaged dozens of commercial technology providers that were otherwise unable and unwilling to do business with the Department by utilizing novel contracting approaches.

Indeed, much has changed...and for the better. And given all of that, were you to ask me how I think we are doing, I would say pretty well. Given the complexity of our business practices, and the entrenched cultures we have inside and outside of government, I believe we have made substantial progress. But we all also know that we have a long way to go.

The security environment we face is an array of often-unpredictable threats and instability, as well as unprecedented threats of chemical and biological warfare, and the continued threat of nuclear confrontation. Our nation's military leaders have set forth, in Joint Vision 2010, their blueprint for meeting the principal challenges of the next decade and beyond. And our success in meeting those challenges will hinge, in large part, on speed and information...and our ability to

access and integrate true cutting edge technologies that provide us the dominance, speed and scope of information we need.

Our success in doing so will play a major role in our success in achieving our goal of providing modern, high performance weapon systems and support to America's fighting men and women. And at the same time, accomplishing this at a lower cost in less time and with higher performance than has ever been the case.

To achieve these goals, the Department is today focused on a number of high priority initiatives: field high quality products and systems quickly and support them responsively; reduce the total ownership costs of new and legacy systems; and reduce the overhead burdens imposed by our current acquisition and logistics infrastructure. For the purposes of today's hearing, let me focus on three of those vital initiatives: a new approach to the front end of systems acquisition; our focus on real civil-military integration; and the people challenges—and opportunities—before us.

It is, of course, no secret that cycle times for new weapons systems—from concept to fielding-- remain unacceptably high and that such long cycle times too often result in the fielding of already obsolete technologies. Since some technology decisions must be made early in a program, it is clear that our history of taking 10 or 15 years to field new systems is not at all consonant with the torrid pace of technology change that we see today. This is in addition to the cost increases we know result from program delays and long cycle times.

There are, of course, many reasons for these long cycle times. Key among them is often the very nature of the requirements set forth for any individual program. Traditionally, our requirements have been both inflexible and involved extraordinary technology challenges that can take many years to meet. Indeed, it has been suggested that we might spend as much as 30% of a weapons system cost in our efforts to meet just the last 10% or 15% of performance. And even when a

system is finally fielded, as noted above, some of its components can be already obsolete.

That is beginning to change. Today, both our operational and acquisition & technology communities recognize that to optimize support for our warfighters in the field, we need to institute new requirements and acquisition strategies that include more flexibility in requirements documents. This added flexibility will allow the kind of logical tradeoffs, based on mature and available technologies, that will enable us to field new capabilities more quickly. In concert with more open architectures and what we call an evolutionary approach to requirements, in which upgrades to the system will be made as technology becomes available, we are confident we can indeed significantly reduce cycle times—and costs—and better serve our national defense.

The Joint Chiefs of Staff have already completed a rewrite of the Chairman's "3170 Series Requirements Generation System" to reflect more flexible and time-phased requirements, interoperability as a key performance parameter, and affordability in requirements documents. Currently, the OSD and Service staffs are engaged in a rewrite of the Department's "5000 Series" documents, which set forward DoD's guidance on systems acquisition.

The DoD 5000 rewrite will, like the changes to the Joint Chiefs of Staff instruction, address evolutionary acquisition, increased technical maturity before starting acquisition programs, integration of acquisition and logistics early in the process, increased and continuous operational assessments, and more. Today, the Department fields the best weapon systems in the world, but at a high price in terms of cost growth and using dated technology. In the new systems acquisition environment, key acquisition and long term funding commitments will not be made until technology is mature and risks are far better understood and mitigated than is currently the case.

Second, our future success as a Department will hinge as well on our ability to access the widest possible array of technologies and solutions. This is, in part, why Congress created special procurement authorities for commercial items, in both FASA, and the Clinger-Cohen Act. Those laws significantly reduced or eliminated the principal barriers that were keeping so many commercial enterprises from doing business with DoD. And those laws have created a solid underpinning for what we broadly refer to as Civil Military Integration (CMI) which, in its most broad sense, reflects the Department's vision for accessing and integrating into its culture the full range of technology and other solutions.

Civil Military Integration is really divisible into two key elements: enabling our current supplier base to integrate operations and facilities so that the Department can share in the rapid pace of change in commercial business processes and technologies, and no longer foot the bill alone for government unique facilities. CMI also involves greatly expanding the government's reach into the commercial world. Think about it...Joint Vision 2010, as I noted earlier, tells us that the keys to battlefield dominance for the coming decades will be speed and information...and to a great extent, technologies we will need to meet those challenges are being developed in the commercial world.

As we consider what that challenge entails, we need to consider as well the reality that is now before us: About 20 years ago, for the first time in our history, American industry began outspending the government in research and development. Since that time, industrial spending in R&D has risen at a fairly constant rate of close to 5% per year, while government spending on R&D has continued to decline at roughly 2.5% per year. American industry now outspends the government in research and development by a factor of 3-1 or more.

The significance of this differential becomes all the more apparent when we look at the research and development of new information technologies—broadly defined and on which we are and will always be heavily dependent. What one sees is

that just the 75 or 80 top information technology companies—just the top companies, not the scores of others in the industry, many of whom have robust R&D programs of their own—are spending more on R&D in information technology than the entire DoD R&D budget. Moreover, probably 75% of those companies do not do business with the government in research and development. Most will sell us mature, commercial products, but only a few companies are willing to engage us during that crucial research and development period. This stark reality represents one of the Department's most critical challenges in the years to come: overcoming the remaining barriers to engagement with those companies. And those barriers are not just statutes; in fact, there are only modest statutory changes that we believe are necessary. Rather, the greatest challenges lie in our own cultures, a culture that is used to owning its own industrial base. But today, that is no longer the case.

This is a fundamental part of Civil Military Integration. We must recognize that as a far smaller customer in the broad industrial base, we can no longer dictate all of the terms and conditions of business, as we were able to do with an essentially captive defense industrial base.

Part and parcel of this new ethic will be our ever-growing focus on performance, or outcome standards, than traditional military or government unique specifications. This was the first major acquisition reform...the 1994 directive from Secretary Perry that the Department avoid military specifications and standards wherever possible in new systems and rely, instead, on more commercial performance standards. We have made real progress in this arena, but more must be and is being done. Let me share a couple of examples:

- **In October, 1999, the Department launched a comprehensive review of the status of specifications and standards reform and is currently developing new direction and policies to expand that reform to legacy systems, in an effort to enable and encourage, wherever possible, the**

insertion into legacy systems of cutting edge commercial technologies that improve performance and reduce support costs;

- **The Department will soon issue new policy with regard to the management of government furnished property which will rely on commercial-like practices;**

- **The Department will soon mandate a far greater reliance on the acquisition of performance-based services, and, at the same time, greatly expand the guidance and training in this vital area that is available to our workforce;**

- **And the Department is currently conducting a pilot program to test the application of commercial packaging specifications to military requirements.**

Each of these initiatives is designed to both eliminate unneeded and costly government unique requirements and to expand the Department's access to commercial providers--many of who currently are often unable, or unwilling, to do business with the Department because of the added costs and systems requirements associated with our practices and policies.

As I noted, however, this is more than an issue of policy or statute, it is one of culture and orientation. Our workforce has been trained for decades in a very different way of thinking. We have trained a generation of professionals—committed, smart and dedicated professionals—in a rule based system that leaves little or no room for real innovation. Given that, I think the amount of progress we have made, progress, which can be directly credited to the hard work and commitment we see throughout our workforce, has been very significant. But it is not enough. In order to operate in this new commercial environment, the acquisition and logistics workforce must have a far more complete understanding of

commercial business practices and how those practices can be utilized in a manner consistent with our responsibilities to the taxpayer and the warfighter. The challenge of providing adequate training and education to our workforce is exacerbated by the demographic realities of that workforce. Fully 50% of the acquisition and technology workforce will be eligible for retirement in the next five years. That presents us with an enormous challenge...and also an opportunity of a lifetime. We have the opportunity over the next several years to fundamentally transform the culture of the world's largest buying organization and it is an opportunity we dare not, and will not, let pass.

As such, in order to more completely train our existing workforce and provide a training and career development path for the many who will be joining us in the years ahead, we have embarked on a series of major initiatives which we believe will facilitate the transformation that is so vital. Specifically:

- **The Department is expanding its assistance to the workforce in the critical area of continuous learning, not only by enforcing our rule that each member of the workforce must receive a minimum of 80 hours of continuous learning every two years, but also by creating a core curriculum, out of which a percentage of that continuous learning must come, and making available to every member of the workforce a web-based directory of a wide array of continuous learning opportunities of all kinds. Among the areas in which we are focusing in this initiative are performance based services acquisitions; buying commercial off the shelf products, particularly software and IT; cost as an independent variable; and more;**

- **We are also on a path to re-engineer the formal training currently offered through the Defense Acquisition University. This re-engineering includes a greater emphasis on business and commercial training, a far more integrated approach to education than the traditional, stove-piped**

approach now in place, and more diverse education and training opportunities;

- **We are launching a major initiative as well to reassess and adjust our career development strategies and programs. Like our current training, our career development and management tends to be far too limiting in scope and does not typically provide our workforce the kind of cross-cutting, multi-disciplinary career development opportunities that are so essential if they are to have the tools to perform the kind of business management requirements we will ask of them. This initiative will seek to synthesize the significant work we have done this past year in both identifying the critical attributes we will need in that workforce with the equally important work being done in assessing our education and training programs;**

- **We are working with the services and defense agencies to put together a true, enterprise-wide knowledge management system, one that, like the best in the commercial sector, helps create within DoD a virtual learning enterprise, where information, training, guidance, best practices templates and more, are available to any member of the workforce at any time. And this past year, we opened the Change Management Center within my organization. We spent a good deal of time during the latter part of 1998 and into 1999, studying other institutions that have undergone fundamental change in both practice and culture. Companies like IBM, GE, Lucent Technologies, Motorola, and more. And among other things, we learned that all those that were successful had put in place a resource organization assisting with the very difficult challenges associated with the change process itself, and at the same time, providing a disciplined, leadership-driven capability to accelerate the pace of change. The Change Management Center is today engaged in change acceleration initiatives across the Department and, indeed, across the**

government, and is, we believe, a critical element of our strategy to create an institution that does in fact buy better, smarter, and faster.

Most people will tell you that our need to change is driven by the realities of our budgets and our well documented need to reduce infrastructure and operating costs in order to free up dollars for the much needed modernization of our forces. All of that is true. But the reality is also that the very dynamics of the marketplace and the pace and ownership of technology development also drive our need to change. Meeting the requirements of information, speed, and agility, which we know will be the keys to the battlefield of the future, requires that, more than ever, we become partners with industry. We must observe and learn from those innovations now being pursued and perfected in the private sector.

This will take perseverance, commitment and, most importantly, trust between customer and supplier. That trust is slowly but surely building and offers us a great opportunity to make significant leaps ahead. I have personally witnessed this growing trust in my many visits to commands across the country and overseas. I saw it in the partnership between the military and its support contractors when I visited the Balkans last summer. We see it in our Integrated Product Teams, our increasing focus on performance specifications rather than restrictive military specs and standards; and we see it in the new product support strategies being employed for many systems, including the C-17, a variety of subsistence items, and much more. As this confidence and trust grows, which it will, I am confident that we will see continued progress toward reform and ever-greater performance.

We are excited about the prospects this new business environment offers and are committed to the long difficult process these changes require. The imperatives are clear, the challenges great, and we have no choice but to succeed.

To accomplish this, we also need commitment and support of Congress. We will continue to work closely with you to accelerate and institutionalize acquisition and logistics reform.

I am happy to answer any of your questions.

Mr. HORN. Our last witness on this panel is Ms. Deidre Lee, the Director of the Office of Federal Procurement Policy of the Office of Management and Budget. Ms. Lee.

Ms. LEE. Good morning. Chairman Horn, members of the subcommittee, as this most likely will be my last hearing before you as Administrator of the Office of Federal Procurement Policy, I would like to thank you personally for the stalwart support you have given the acquisition community. You have been dedicated to improving the system, understanding the challenges, and working with us to move forward. Thank you.

Mr. HORN. Thank you, Ms. Lee. You have done a fine job and I think you must have read about Everett Dirksen, that honey is better than vinegar, so thank you. [Laughter.]

Ms. LEE. Well, along that same ilk, I would also like to take this opportunity to express my gratitude to the great group of people who you have already recognized, the Front Line Forum, and for all the people they represent. These are dedicated people that make a difference every day and I thank them for all that they do.

We are here today to discuss our current challenges and priorities in reforming acquisition. There has been a great deal of discussion about the $200 billion of products and services we purchase each year, everything from the mundane to the very unique and unusual to support our military. Our success in improving the government's productivity depends very much on our ability to improve our acquisition practices.

Over the past 7 years, this administration has worked closely with Congress to develop a statutory and regulatory structure that brings common sense back to acquisition. We have moved much closer to commercial practices. Instead of focusing on the low cost, we now emphasize best value contracts that take into account the quality of performance expected based on the overall package offered and the contractor's past performance.

We have made it much easier for the government to purchase and companies to sell commercial off-the-shelf products that are suitable for government needs, and we have moved away from the idea that we must have custom products to meet our every need. We have made it possible for program officials to use purchase cards to make purchases under $2,500, the so-called micro purchases, and thereby allowing our contracting professionals to focus on providing business advice for the larger acquisition programs. These reforms allow agencies to structure their contracting operations in a way that makes sense and provides increased flexibility for contracting officials to make and implement good business decisions.

Despite the progress that has been made, there is still much more to be done. First, we must ensure that we are fully using the increased flexibility, and second, we must continue to look ahead, staying alert to changing commercial practices and conditions and new technologies to identify additional reforms with substantial potential benefits. And, as everyone else here has said today, most importantly, we must have a talented, prepared work force.

My written testimony provides more detail on the efforts we have undertaken to meet these challenges. In the interest of time, I will

just briefly summarize current priorities and comment on our approach to considering legislative changes.

First, our priorities are grouped into three general areas. The first and foremost, as you have heard me say many times, is we have to implement the opportunities that we have, and so I am going to go through a very quick litany of a few things that we have worked on.

First, we are making contractor performance a substantial factor in contract administration and source selection. How have you done? What are you going to give to us in the future? We think that provides good information for making decisions.

We are encouraging results-oriented performance-based contracts, where contractors have to innovate in deciding how to perform the work and then trying to peg payment to performance.

For purchases under $100,000 and on a test base for commercial items up to $5 million, contracting officers use simplified procedures that address market conditions and product- or service-specific circumstances. For larger purchases, we have modified FAR Part 15 to focus on obtaining best value through competitive and intensive negotiation process with the most highly rated sources.

We are using multiple award contracts, multiple award schedules, and governmentwide acquisition contracts which were endorsed by FASA, MACs, and GWACS, and these are more commercial-like vehicles that permit streamlined competition among contract holders.

We are emphasizing capital programming, and there are many other contracting initiatives we could talk about today. But I think a very important note here is, as we have noticed through the other witnesses, there is still much need to focus on planning and definition of requirement and assuring that we are buying the right thing, not just buying it quickly.

The second tenet is the area of electronic commerce. We are seeking to take advantage of the opportunities that are offered through electronic commerce in terms of high returns for significant process simplification, increased efficiency, and more effective buying strategies. There is a plan, the government strategic plan, on electronic commerce for buyers and sellers that basically outlines three tenets of how we are trying to make these improvements, and there is more detail of that in my written testimony.

And finally and most important, here we go, people. Central to the success in the first two areas of acquisition reform overall is our ability to develop a work force that has the capability and the knowledge to provide sound business advice and the leadership to support them. We are addressing work force issues and I think Mr. Soloway gave you some more detailed information, but we are trying to define the competencies, modify training, deliver the training, address recruiting and retention, and certainly updating policies and providing people the support and leadership they need. We need to provide the acquisition work force with tools, training, and flexibility to make good business decisions.

As we continue to review our statutory framework to ensure it allows our acquisition work force to pursue innovation and implement new commercial practices, this year, as you know, we sought, among other things, to streamline the application of cost account-

ing standards. We sought an extension of the test authority from Clinger-Cohen so that we can use simplified source selection procedures in commercial items up to $5 million. And we thank you for the favorable action that Congress has taken on these proposals.

We have resubmitted our proposal to authorize the substitution of electronic notice through a single point of entry for the currently required paper notice. It is important that we are able to transition along with the commercial market from paper-based to paper-free process.

While we remain focused on taking advantage of the reforms already enacted, we will not hesitate to seek further congressional action as we identify statutory changes needed. DOD in particular has some challenges, and I know Mr. Soloway will shortly have a package on legislative changes, as well.

The challenge here, if the occasion arises, I hope that you and this subcommittee will help us discourage legislative proposals that would reverse the progress made to increase the government's use of commercial practices and contracting officials' discretion to exercise business judgment. As promoters of acquisition reform recognized early on, contracting officials must be willing to take prudent risks if they are to succeed in making the fundamental business practice changes that are necessary to improve government acquisition. Our contracting officials have achieved much success in doing so. But sometimes, mistakes will be made or events considered to be low-risk will occur. I urge the members of this subcommittee to work with us to resist efforts to repeal acquisition reform as we continue to learn and demonstrate the benefits.

The overarching challenge now is to deliver full benefits. I have made it my focus since assuming the role of Administrator to implement acquisition reform. Doing this simultaneously as we continue to seek out additional ways to improve complicates our task. However, having to implement changes and at the same time continuously improve the system is now common in the commercial world. The accelerating pace of change is something everyone in business is experiencing. We in the government must attack these problems with the same sense of urgency that grips today's corporations. Taxpayers deserve nothing less.

On behalf of the administration and the acquisition work force, I again thank the subcommittee and the Members of Congress for working to make these opportunities possible. It has been a pleasure. Thank you.

Mr. HORN. Thank you very much.

[The prepared statement of Ms. Lee follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

STATEMENT OF DEIDRE A. LEE

ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION AND

TECHNOLOGY

COMMITTEE ON GOVERNMENT REFORM

UNITED STATES HOUSE OF REPRESENTATIVES

March 16, 2000

Chairman Horn, Congressman Turner, and members of the Subcommittee, I am pleased to be here today to discuss our current challenges and priorities in reforming acquisition. The government acquires nearly $200 billion in products and services each year to support the agency missions. Defense needs account for over sixty percent of those dollars but the full range of agency activities -- everything from conducting scientific research to data processing -- is supported by contracts. Our success in improving the government's productivity depends very much on our ability to improve our acquisition practices. This Administration understands this and has worked hard to advance acquisition reform.

Over the past seven years, this Administration has worked closely with Congress to develop a statutory and regulatory structure that brings common sense back to procurement. We have moved much closer to commercial practices. Instead of just looking at the lowest cost, we now emphasize "best value" contracts that take into account the quality of the performance expected based on the overall package offered and the contractor's past performance. We have made it much easier for the government to purchase, and companies to sell, commercial, off-the-shelf products that are suitable for government needs and have moved away from the idea that we must have custom products to meet our needs. We have made it possible for program officials to use purchase cards to make purchases under $2,500 (so-called "micro-purchases"), thereby allowing our contracting

professionals to focus on providing business advice for our larger acquisition programs. These reforms allow agencies to structure their contracting operations in a way that makes sense and provides increased flexibility for contracting officials to make and implement good business decisions.

Despite the progress that has been made, there is still more to be done. First, we must ensure that we are fully using the increased flexibility and realizing the increased efficiency under the reforms now in place to deliver mission benefits. Second, we must continue to look ahead -- staying alert to changing commercial practices and conditions and new technologies -- to identify additional reforms with substantial potential benefits.

Today, I will discuss the efforts we are undertaking to meet these challenges. I will concentrate primarily on our current priorities, but also would like to comment briefly on our current approach to considering additional legislative change.

Our Priorities

Those leading highly successful corporations frequently cite the importance of focusing the workforce on a few key initiatives when seeking to change direction. We are trying to do that at OFPP. Our current acquisition reform priorities can be grouped into three areas.

First, we are working to ensure full implementation of key practices that will move us closer to the commercial model:

- making contractor performance a substantial factor in contract administration and source selection;
- encouraging contractors to innovate in deciding how to perform the work and tying payment to performance;
- using new contracting tools to obtain up-to-date technology and better prices; and
- improving the planning and execution of capital asset acquisitions.

Second, we are seeking to take advantage of the opportunities that electronic commerce (EC) offers to improve acquisition. We are looking to EC applications with high returns in terms of significant process simplification, increased efficiency, and more effective buying strategies.

Third -- central to success in the first two areas and of acquisition reform

overall -- is our effort to develop a workforce that has the capabilities and knowledge to provide sound business advice. Commercial business leaders understand that success depends on the quality of the firms' human capital. Like those leaders, we also recognize that, beyond ensuring the workforce is capable and knowledgeable, to succeed in implementing change requires a sustained effort to ensure the workforce understands management's vision and to lead the workforce through the change.

To ensure a strong focus on these priorities, we are working with the Procurement Executives Council to include, in a core set of acquisition metrics, measures for gauging agency progress in advancing these priorities.

1. Commercial Practices

Greater use of commercial buying practices is key to improving government acquisition. We are emphasizing practices that we believe have the greatest potential for achieving greater returns in terms of better mission support and more value for taxpayer dollars.

a. Considering a contractor's past performance

Like the commercial sector, we are seeking to ensure agencies make past performance a substantial factor when evaluating contractors for award. This strategy serves two purposes. First, it enables the government to select contractors with proven performance records and, thus, a higher likelihood of successful performance on the instant requirement. Second, it motivates contractors to provide higher quality service in order to be competitive for future business.

We have made a best practices guide and a suggested performance report form available to agencies and are continuously considering recommendations from various government and industry groups. We plan to issue an update to our guide this spring. Our goal is to ensure appropriate evaluations are completed in a timely manner, are subjected to contractor comment and subsequent government management review, and are made easily available for future award decisions.

Doing periodic evaluations during contract performance is the key to improving contractor performance. Discussing performance with the contractor reinforces good performance and allows time to correct poor performance. It is these interim reports along with the final report at contract completion that provide the information on contractor past performance for source selection. We continue to work with agencies to implement processes that make completing evaluation reports easier and a routine part of contract administration.

The National Institutes of Health (NIH) and the Department of Defense (DoD)

have developed automated contractor performance systems to ease administrative burden and remind the contracting officer when an evaluation is due. The NIH system has proven itself. Twelve civilian agencies are currently using the system. Two additional agencies are in the final stages of evaluating the system and appear likely to begin using it soon. We are encouraging all civilian agencies closely to evaluate the NIH system before developing their own unique system. In addition, DoD is making significant progress in implementing automated contract performance systems. We expect to see rapid progress in this area over the next year.

b. Using performance-based service contracting (PBSC)

Of the approximately $200 billion spent annually through contracts, services account for about half of this total. PBSC is a methodology for acquiring services that focuses on desired mission-related outcomes instead of emphasizing how the work is performed, and ties payments to the contractor's success in achieving those outcomes. PBSC has successfully demonstrated an ability to enhance mission attainment and reduce contract price. It has been incorporated into one of the Administration's Priority Management Objectives, and we are monitoring its implementation through the agencies that award the most dollars in service contracts.

OFPP is assisting agencies in their efforts to implement PBSC. We have:

- Designed and executed a government-wide pilot project that demonstrated quantifiable PBSC benefits;
- Led interagency working groups to develop PBSC templates for professional and technical services of common interest;
- Published a best practices guide and other documents to assist and train agencies, such as a checklist to help agencies determine if an acquisition is PBSC and lists to identify services particularly conducive to PBSC and PBSC trainers;
- Provided training to personnel of many agencies and supported agencies in developing acquisition strategies for key programs and contracts;
- Reviewed hundreds of contracts and offered suggestions for ways to incorporate PBSC; and
- Promoted PBSC in management meetings and procurement conferences of many agencies, as well as interagency groups such

as the President's Management Council.

c. Using new contracting tools to obtain up-to-date technology and better prices

As a result of recent statutory and regulatory changes, agencies now have a variety of tools that allow them to gain much more timely access to technologically up-to-date products and services at highly competitive prices. For all purchases under $100,000 and -- on a test basis -- for purchases of commercial items up to $5 million, contracting officials now are authorized to use simplified procedures. These authorities give contracting officials great flexibility to emulate commercial practices for using competition to obtain value. Contracting officials have broad discretion to use the procedures they think will work best in the context of the specific products and services, market conditions and other circumstances involved. For large purchases, the revisions to FAR Part 15 allow contracting officers to better focus the government's resources on obtaining the best value when soliciting widespread competition through an intensive negotiation process with those sources that are the most highly rated. These changes are key to acquisition managers' ability to provide on-time, high-value support for agency missions with smaller workforces.

In addition, agencies are finding particular benefit in multiple award contracts (MACs), multiple award schedule (MAS) contracts, and government-wide acquisition contracts (GWACs). MACs, which were endorsed in the Federal Acquisition Streamlining Act (FASA), allow contracting officials to use streamlined commercial-style competition among contract holders in awarding orders and efficiently apply continuous competitive pressure to yield high value. With respect to MAS, the General Services Administration (GSA) has eliminated the maximum order limitation that applied previously when agencies ordered under the MAS, so that agencies may negotiate additional discounts below the prices initially negotiated by GSA in return for large quantity purchase commitments. GWACs – contracts operated by agencies designated by OMB pursuant to the Clinger-Cohen Act to serve as executive agents for all agencies -- enable agencies to save the administrative expense of awarding their own contracts and to leverage purchases through aggregation.

The Congress has provided the Executive Branch with a great deal of discretion in using MACs, MAS, and GWACs. As a result, we can develop and implement creative, commercial-like strategies under these vehicles that provide opportunities to make more effective use of competition and leveraging. Given that broad discretion and the ability to conduct procurements very efficiently under these vehicles, it is not surprising that an increasingly large proportion of the government's information technology (IT) purchases are now being made using them.

In light of this trend, I am making it a high priority for OFPP to ensure agencies make the most of the opportunities these authorities present for greatly improving government acquisition. Our challenge is to make the most of the opportunity not only to deliver timely support for agency programs but at the same time to ensure we make the most of the opportunity to use commercial strategies and practices to reap value. We need to get this right. The stakes are high -- both in terms of our need to get the most for taxpayer dollars when purchasing IT and more generally to demonstrate to the Congress and taxpayers that when given broad discretion in managing acquisition, the government's contracting officials will exercise that discretion wisely.

With the support and participation of the Program Managers Council we formed consisting of the managers of the largest MAC/GWAC programs open to government-wide ordering and the managers of GSA's MAS programs, we are pursuing the following projects:

- Refining guidance to facilitate more effective structuring and administration of MACs through more concerted use of competition and PBSC to motivate better contractor performance;

- Taking steps to ensure agencies' program, contracting, financial, and information technology officials are jointly taking responsibility for achieving sound use of MAC vehicles;

- Giving better shape to the creation and use of GWACs by working more closely with current and prospective executive agents to consider how these vehicles can best add value in light of the various options available to agencies for meeting their needs; and

- Looking for opportunities to employ technological advancements that can both facilitate more leveraging of the government's buying power and improve customer awareness of, and access to, these vehicles.

I am encouraged by the desire of the Program Managers Council to take action when concerns arise. It is this type of proactive engagement that will position us to realize the benefits the Congress and the Administration envisioned in providing the MAC, MAS and GWAC authorizations.

To measure our progress, I have been working with officials from the Information Technology Resources Board on a plan for a focused review of inter-agency acquisitions undertaken through GWACs, MACs, and MAS. My expectation is for this study to provide a current picture of customer ordering and management practices and servicing agency administration. The study will also look at vendor expectations and experience. This study should help us to determine whether practices need to be further modified. We also plan to look to see if

objectives underlying the use of these vehicles need to be reshaped to bring about better and more strategic purchasing.

d. Improving capital programming

The government spends approximately $70 billion annually to acquire, operate and maintain capital assets. To obtain desired results, reduce cost overruns and avoid schedule slips, agencies are implementing rigorous capital programming processes. Well selected, controlled and managed capital investments can ensure that agencies fulfill their missions at the lowest cost and greatest benefit to the American people. By integrating strategic planning, budgeting, acquisition and financial management systems, agencies can properly assess the benefits, risks and performance goals of their capital asset portfolios.

As part of the continuing effort to improve major acquisition management by agencies, OMB worked with the Chief Information Officer Council to institute new procedures to better coordinate and integrate budget reporting of Information Technology (IT), for the Fiscal Year (FY) 2001 budget. Circular A-11, Part 3 was revised to incorporate criteria for funding IT system investments and to require full up-front cost estimates for the life-cycle of each major IT investment. The results of these changes are: (1) major IT acquisitions are now treated like all other capital assets; (2) IT is integrated into agencies' overall capital planning and budget processes; (3) agency managers, OMB, and Congress will have sufficient planning data to make well-informed budget decisions; and (4) acquisition strategy and cost, schedule, and performance baselines are more closely linked to agency mission and strategic goals and objectives. The lessons learned from this closer look at IT investments for FY 2001 will be incorporated for all major acquisitions the following year.

Agencies continue to make progress toward implementing performance-based acquisition management and toward integrating its principles into their larger capital programming process. In OFPP's June 1996 annual report to Congress on civilian agencies' implementation of FASA Title V, we concluded that information available was generally insufficient to easily evaluate agencies' achievement of cost, schedule or performance goals or to demonstrate that adequate performance-based management systems are in use. By our July 1998 FASA V Report, we concluded that 15 of 16 agencies demonstrated positive strides toward implementing good capital programming principles, and that 11 agencies utilized capital investment processes; used performance-based management systems; and achieved, on average, 90% of baseline cost, schedule and performance goals. This year I was pleased to report that the quality and completeness of acquisition program information reported to senior agency officials and OMB has improved significantly, and is increasingly relied upon to make informed budget decisions. Agencies are beginning to apply the discipline of capital programming and capital

planning and investment control better to plan and manage major acquisition programs. Our challenges over the coming year will be to improve governmentwide compliance with the capital programming requirements of Circular A-11 and consistency in acquisition program reporting.

2. Electronic Commerce (EC)

The application of EC technologies to the acquisition process, our second area of priority, offers opportunities for improving acquisition through redesign of the buying process. Our overall approach is to rely on the commercial marketplace to take the lead in identifying areas where new technologies and the business practices enabled by those technologies can be applied to improve government acquisition. The government's strategic plan, *Electronic Commerce for Buyers and Sellers*, calls for agencies to take aggressive action to explore such opportunities and take advantage of commercial development of EC as it occurs. Agencies are progressing along the three tracks set out in the strategic plan:

- Agencies have developed cross-functional implementation plans for managing the transition from paper-based to electronic processes.

- Agencies are moving fast to facilitate low dollar, high volume purchasing -- an area identified by the plan as offering immediate high returns -- through the use of purchase cards and catalogs that accommodate electronic payment through the commercial card system.

- Agencies are reengineering key aspects of the acquisition process -- they are working, for example, to enhance access to contract opportunities by making synopses, solicitations, and related documents available electronically.

OFPP continues to caution against adopting EC just because the technology is available or for the sake of simply making current processes electronic ("paving the cow paths" as they say). Instead, we expect agencies to view EC investments as they do others -- giving priority to those with the greatest returns and determining whether changes in business practices or operations are necessary to take the full advantage of the improvement opportunities enabled by EC. We continue to work with agencies to explore new commercial developments and trends -- in the use, for example, of electronic catalogs, exchanges and auctions -- that can offer means for radically redesigning the government's acquisition strategies.

A major focus of our EC efforts is to evaluate the various systems available for making synopses of contracting opportunities and solicitations accessible electronically through a single point of entry. Improving access to open market

contracting opportunities through the use of EC is a key government initiative. In conjunction with this effort, the Administration has submitted legislation to authorize substituting the electronic notice of contracting opportunities available through the designated single point of entry in place of the notice now required to be published in the Commerce Business Daily, and to use the electronic publication date as the starting point for counting the number of days provided to submit bids and proposals. Making notices and solicitations available electronically should enhance competition for government purchases by making it easier and less costly for potential offerors to find out about government business opportunities. One alternative under consideration -- the Electronic Posting System (EPS) now being piloted by a group of agencies -- allows companies to register to receive automatic e-mail notification about contracting opportunities in specific categories or locations of interest.

As we implement EC, we remain attentive to opportunities to enhance small business' ability to participate in Federal procurements. We have been working with the Small Business Administration to explore the feasibility of linking its Procurement Marketing and Access Network (PRO-Net) with the single point of entry. As you may know, PRO-Net is an internet-based database of over 181,000 small businesses (including small-disadvantaged businesses and 8(a) firms). This linkage will serve as a means for using EC to increase small business awareness of government contracting opportunities. To test this concept, we are developing an interface between PRO-Net and EPS that would give small businesses a direct link to notices and solicitations and an automatic e-mail notification capability.

We are also working to put in place an electronic index of contracts designed with the expectation of significant interagency use, such as GWACs. Our goal is to assist agencies in efficiently identifying available vehicles that potentially could satisfy their needs. Efforts by individual agencies, such as NASA's Consolidated Contracting Initiative, have already demonstrated how providing better access about existing contracting opportunities can lessen the time it takes to conduct purchases, reduce duplication of effort, and facilitate leveraging through aggregation of purchases.

We continue to work with the Office of Federal Financial Management to ensure effective use of purchase cards under GSA's new SmartPay contract. The combination of micro-purchase authority and purchase cards continues to help alleviate the burden placed on contracting offices. By delegating micro-purchase authority to program officials (made practical by the availability of the purchase card), contracting offices may focus their staff resources on more complex, higher dollar procurements, where their expertise adds the greatest value to the buying process.

In all, we will continue to look for ways to use EC to strengthen the

government's acquisition functions so that we can make our interactions easier, faster, and less costly for both ourselves and our trading partners.

3. The Acquisition Workforce – At the Center of Today's Challenges

Thanks to the collective efforts of the Congress and the Administration, we now have in place reforms that provide contracting officials with a variety of new tools for improving government acquisition. As I have discussed, at OFPP we are focused on advancing those commercial practices which we believe have the greatest potential for achieving improvements. In addition, we are working with the agencies to identify high return EC projects. However, as in all fields of business, the success of the most brilliant concepts and strategies is dependent on the knowledge, capabilities and will of the people charged with implementation on the front lines -- here, the contracting officials who are charged with conducting the acquisitions that support agency missions and obtaining value for taxpayer dollars.

Prior to the emergence of acquisition reform, we attempted to dictate the conduct of acquisitions by placing a great deal of emphasis on developing and enforcing rules. Our workforce took pride in knowing those rules well and in instructing others how to comply. Knowing the rules is still essential, of course, and we depend on contracting officials to provide advice for applying them to achieve the best results. However, both the Congress and the Executive Branch have come to recognize that in order for the government to deliver the value that taxpayers expect, the procurement system must be flexible enough to allow contracting officials to access the market-driven efficiencies, economies of scale, and technologies available in the commercial market. As a result, today's acquisition professional not only must know the rules but also must have the knowledge and capability to develop effective strategies for accessing the commercial marketplace and achieving the best business solution.

Consider the following two examples of challenges our contracting officials now face:

- Agencies now have a variety of alternatives available for taking advantage of commercial market pressures when making a larger dollar acquisition. For example, they may: issue a widespread solicitation and award a contract, place an order under a preexisting MAC -- either at their agency, or at another agency if available -- or use the MAS. Deciding which alternative will yield the most effective results for a given acquisition requires a full appreciation of the acquisition strategies enabled by each approach, including the different ways for applying competition to obtain the most value for the dollars available. In evaluating the merits of initiating a widespread competition, for instance, contracting officers need to understand the changes we have made to FAR Part 15 to secure the best values.

Part 15 enables contracting officials more efficiently to identify the proposals that are most competitive and to engage in hard bargaining. In considering the placement of an order under a MAC, customers must know how to devise acquisition strategies that involve the continuous commercial-style competition for which these vehicles are designed. Similarly, if the MAS is to be used to place orders over the maximum order threshold, the customer agency must train itself to seek a better deal commensurate with the size of the purchase.

- The elimination from statute and regulation of many government-unique certifications, contract terms and conditions, and record keeping and reporting requirements brought about by the Congress' and the Administration's efforts gives us much greater opportunity to access the commercial marketplace. The elimination of these requirements (which made purchasing commercial items unnecessarily cumbersome) is encouraging successful commercial companies to offer their products for sale to the government. But with the promise of greater access comes the demand for our contracting officers to understand and embrace new ways of approaching their jobs of supporting mission needs. For example, they must learn to conduct effective market research and use competition and hard bargaining – rather than depend upon cost information submitted by contractors that comply with Cost Accounting Standards (CAS) -- to negotiate good deals.

Recognizing the challenges associated with exercising the increased discretion available using the acquisition tools of today, the Administration, with direction and support from the Congress, has been working to ensure the acquisition workforce has the knowledge and capabilities necessary to provide sound business advice.

a. Educational Standards and Training

Those seeking to serve as contracting officials now must meet specific educational standards and take a minimum number of continuous education hours each year. We continue to evaluate whether those minimum requirements are sufficient to ensure contracting officials have the necessary knowledge of fundamental business concepts appropriate for the increased discretion they now enjoy.

In addition, the agencies have put in place specific training requirements that must be met before contracting officials are promoted to the higher grades and given substantial contract award authority. We have asked the Federal Acquisition

Institute (FAI) to review those programs to identify best practices for ensuring contracting officials are prepared to wield that authority. In conjunction with that review, we are re-examining the functions and responsibilities of contracting officials in the context of the reformed contracting environment to identify the competencies and skills required. Beyond looking at ways to ensure the workforce has knowledge and skills required to provide insightful advice and make good business judgments, we are looking at better ways to promote the implementation of specific acquisition reform initiatives.

In a recently issued report, GAO compared DoD's efforts to provide training to support implementation of best practices to commercial firms' implementation of substantial changes in the way they do business. GAO found that highly successful commercial firms focus on a small number of well-defined practices and make a significant front-end investment in training. The leading firms see the training associated with key initiatives as a corporate responsibility. They strategically design it to meet the specific needs of those responsible for implementing the practice and strive to give workers the knowledge to put them in a position to succeed. The successful firms develop well-defined learning objectives in order to ensure the targeted workforce understands management's vision and how to apply the new practice to achieve the desired outcomes. As the GAO observed, "in leading commercial firms, little regarding implementation is left to chance."

We agree with the GAO. As I have discussed, at OFPP our reform efforts focus on a limited number of top priority efforts to improve acquisition. We are now exploring with FAI alternative approaches for a more strategic approach to the development and delivery of training along the lines of those used by successful commercial companies.

Targeted training is not limited to the courses, however. The Program Managers Council I described a few moments ago, for example, provides the managers of multiple award contracts (MACs) programs with a venue to learn from one another by discussing weaknesses in the use of these vehicles and working out effective strategies to improve practices in a timely manner. Through the council, the program managers were able to use a report issued by the Defense Inspector General last April as an opportunity to initiate a dialogue reassessing their own practices in competing and pricing task orders and documenting awards. (The Defense Inspector General raised concerns regarding missed opportunities to ensure competitive pressures are continuously present when task orders are issued under MACs – a key benefit of these vehicles.) OFPP forwarded the council's suggested refinements to the FAR Council for consideration. The program managers' suggestions facilitated the development of a proposed FAR rule in December that promises to help our acquisition community collectively take yet another step forward in its understanding and effective implementation of MAC authority. Given the Program Managers Council's appreciation of, and active

engagement with, these issues, I am hopeful that they will make equally productive contributions in helping to address additional issues being raised by the General Accounting Office in its review of large task and delivery orders placed under MACs.

b. Additional Steps In Support of Workforce Development

The actions noted above are just a few of the pursuits that will improve the capability of our workforce to provide the insightful business advice and leadership required in the reformed acquisition environment. We are undertaking a variety of other steps to ensure we have a capable and knowledgeable acquisition workforce.

- ***Defining competencies.*** We have initiated a competency-based profile study of the contracting workforce. Similar to studies done for the financial management and IT communities, this effort will identify competencies and skills necessary to perform contracting functions envisioned for the future workforce. The results of this study will have a variety of applications, including recruitment, assignment, performance evaluation, and training decisions.

- ***Modifying training.*** We are working toward reciprocity between agency training programs. I am working with Stan Soloway, the Deputy Under Secretary of Defense for Acquisition Reform, to achieve reciprocity between DoD training and training conducted by GSA and the other civilian agencies. In addition to helping achieve a more uniform level of competency across the acquisition workforce government-wide, the increased mobility facilitated by reciprocity will enhance morale and aid our efforts to recruit strong candidates. Ultimately, we will also be considering whether to prescribe a core set of courses that would be mandatory government-wide.

- ***Delivering training.*** We are looking at opportunities to change our training delivery system to place more reliance on commercial training sources, targeted just-in-time training, and electronic or online avenues, such as the FAI On-Line University. Our goal is an efficient and flexible system capable of delivering the right training to the right people at the right time.

- ***Recruiting and retaining personnel.*** We are working on several initiatives targeted at attracting and retaining highly capable individuals for acquisition positions. They include: (1) a new Government-wide Acquisition Management Intern Program, which uses a two-year developmental experience featuring rotational assignments and classroom training and defines a career path that

can progress these candidates to leadership positions; (2) the Presidential Management Intern Program; (3) interagency exchange programs where candidates rotate through various agencies; and (4) exchange programs with industry.

- ***Updating Policies.*** We are working on a new policy letter to replace those issued in 1992 and 1997 and implement the decisions made concerning the issues outlined above and set forth a new government-wide strategy for workforce development.

The Changing Acquisition Environment and Additional Statutory Change

As you can see, we largely are preoccupied with implementation in order that we can realize the full benefits of acquisition reform. While this is key, we must also be sensitive, as I noted at the outset, to the dynamic nature of the environment in which we operate. In today's fast changing world, those who ignore the need to continue their quest to improve soon find that they are left behind. Commercial industry understands this and companies continuously strive to improve their competitive position. Our citizens, having experienced the benefits of vigorous commercial market competition, similarly expect their government continuously to improve its performance. Thus, at the same time that we vigorously pursue implementation of best practices we have already identified, we must continue to seek out additional ways to improve our strategies and processes.

We continue to review our statutory framework to ensure it allows our acquisition workforce to pursue innovation and implement new commercial practices as they develop. This past year, as you know, we sought, among other things, to streamline the application of Cost Accounting Standards (CAS) by raising thresholds and adding exemptions to help the government's ability to take full advantage of commercial suppliers, where CAS may have acted as a barrier. This action was designed to complement others that have been taken over recent years to make buying commercial items easier and encourage commercial companies to offer their products and services for sale to the government. We also sought an extension of the test authority you provided us in the Clinger-Cohen Act to use simplified source selection procedures in commercial item acquisitions up to $5 million. This request was intended to give agencies the opportunity to further explore potential benefits and share experiences.

We were pleased by the favorable action of the Congress on these proposals. With respect to the commercial items test authority, I understand that agencies using this authority are seeing improvement in cycle times and reductions in the administrative costs associated, among other things, with meeting non-recurring and time-sensitive needs from the commercial marketplace. We will want to work with this Committee and others in the Congress to secure a permanent

authorization after we further validate agency experience. We have resubmitted our proposal to authorize the substitution of electronic notice through a single point of entry for the currently required paper notice. It is important that we be able to transition, along with the commercial market, from paper-based to paper-free processes.

While we remain focused on taking full advantage of the reforms already enacted, we will not hesitate to seek further Congressional action as we identify statutory constraints that stand in the way of performance-enhancing redesigns of our acquisition processes. DoD in particular, spurred by the Congressional charge to study ways to streamline acquisition in section 912(c) of the National Defense Authorization Act for Fiscal Year 1998, is aggressively seeking to identify remaining barriers that thwart DoD's efforts to reduce operations and support costs and increase the return it receives for its modernization dollars. One such effort is DoD's review to identify barriers that continue to inhibit greater DoD use of the predominant commercial practice of price-based -- as opposed to cost-based -- acquisition. By increasing reliance on the price based approach, DoD seeks to gain access to a broader civil-military industrial base offering access to commercial economies of scale and market-driven efficiencies and technological advances.

If the occasion arises, we hope you will help us discourage legislative proposals that would reverse the progress we have made to increase the government's use of commercial practices and contracting officials' discretion to exercise business judgment. As implementation of acquisition reform proceeds and changes begin to dislodge those that have become comfortable with the status quo, we can expect to see proposals to turn back the clock and reinstate the barriers that we have worked so hard to take down. As we who promoted acquisition reform recognized early on, contracting officials will have to be willing to take prudent risks if they are to succeed in making the fundamental business practice changes that are necessary to improve government acquisition. Our contracting officials have achieved much success in doing so. But, sometimes they will make mistakes or events considered to be low risk will occur. I urge you and the other members of the Subcommittee to work with the Administration to resist efforts to repeal acquisition reform before we have had the opportunity to work with the newly authorized acquisition practices and demonstrate the benefits to be realized from full implementation of the most promising ones.

Conclusion

Chairman Horn, Congressman Turner and members of the Subcommittee, throughout this Administration, the Congress has been our partner in the effort to reform acquisition to better support agency missions and deliver greater value for taxpayer dollars. In 1994 and 1996, the Congress worked with the Administration to enact three landmark acquisition reform laws -- Federal Acquisition Streamlining

Act of 1994, the Federal Acquisition Reform Act of 1996, and the Information Technology Management Reform Act of 1996 (the last two collectively referred to as the Clinger-Cohen Act). By increasing the discretion afforded contracting officials under the acquisition statutes and supporting the Executive Branch's work similarly to reform the regulations, the Congress has given us the opportunity to exercise our business judgment and manage acquisitions to better serve the taxpayers and those served by agency programs. On behalf of the Administration and the acquisition workforce, I again thank the Congress for working with us to make this opportunity possible.

The overarching challenge now is to deliver the full benefits envisioned by the reformers. Recognizing this, I have made it my focus since assuming the role of Administrator to implement recent reforms and initiatives. Doing that simultaneously as we continue to seek out additional ways to improve the process complicates our task. However, having to implement changes and at the same time continuously improve the system is now common in the commercial world -- the accelerating pace of change is something everyone in business is experiencing. We in government must attack these problems with the same sense of urgency that grips today's corporations. Taxpayers and those served by government programs will stand for nothing less.

This concludes my prepared remarks. I would be pleased to answer any questions you might have.

Mr. HORN. We are going to start the questioning with 5 minutes per person rather than the usual 10 minutes on complicated matters. When Mr. Turner returns, we will go back to 10 minutes for himself and myself and any members who are staying. But we do have a guest this morning, and if my colleagues would give me unanimous consent, the gentlewoman from New York we will include in the 5-minutes and we will go right down the line. Without objection, she will be part of the subcommittee for this purpose. She has put in a very worthwhile resolution and her questions and the answers are very important. So if my colleagues would let her serve with us for a while, all right. That would be for Ms. Kelly, and then you and Mr. Davis.

Ms. Kelly, we will yield 5 minutes to you for your questions.

Ms. KELLY. Thank you, Congressman Horn. I thank you very much and I thank the committee for inviting me and allowing me to speak here today.

As co-chair of the Women's Caucus and as vice chair of the Small Business Committee, I am particularly concerned about what the witnesses on the first panel have to say regarding how acquisition reform will have an impact on the Federal Government's small business and women-owned business goals. As I am sure you are all aware, we are trying to award at least 5 percent of all government contracts to women-owned businesses. Some agencies are doing quite well. Others, including the Department of Defense, award less than 2 percent of their contracts to women-owned firms. The Department of Energy has yet to even report their figures.

I have noticed that few witnesses mentioned small businesses, women-owned businesses, disadvantaged business utilization in their testimony, so I am glad to be here to ask a few questions. And again, I thank you for inviting me here, and with that, I will begin.

I would like to ask Ms. Lee, you talk about training and educational standards. What type of training do the contracting officers receive in trying to uncover women-owned businesses when they are doing their market studies on prospective bidders?

Ms. LEE. Ms. Kelly, I see that you are ready for St. Patrick's Day tomorrow. There is a great deal of training. We are incorporating it into the everyday acquisition training and trying to get people to acknowledge and understand what their goals are, how to meet them, the tools that are available to meet them——

Ms. KELLY. What specifically for women? I am sorry to interrupt you, but that is really what I am interested in, women, minority, and disadvantaged.

Ms. LEE. Specifically, it is included. We do not have a separate small business course now. We are looking at that as we have this online training and to provide specifically separate. Right now, it is incorporated in the regular training that people go through as they learn about acquisition.

Ms. KELLY. But it is present as——

Ms. LEE. Yes.

Ms. KELLY [continuing]. And it specifies talking with them about doing these contracts?

Ms. LEE. They learn about Part 19. They learn about the priorities, about women-owned business, HUB zones, veterans' owned, small disadvantaged business, small business set-asides, how to

use those tools, what tools are available, what the priorities are, what the goals are. That is part of education for our acquisition work force.

Mr. HORN. If I might suggest to the gentlelady from New York that we would like the curriculum material sent to the committee and put in this at the appropriate place where Ms. Kelly is making these questions.

Ms. LEE. OK. It is quite substantial.

Ms. KELLY. Thank you very much, Mr. Chairman.

[The information referred to follows:]

Training provided to contracting personnel, developed and delivered by numerous Government and commercial sources, is designed to address 85 different competencies outlined in the *Contract Specialist Workbook* (CSW) that is published and maintained by the Federal Acquisition Institute. The responsibilities covered in Part 19 of the Federal Acquisition Regulations (FAR) are incorporated into several "units of instruction" from the CSW that form the basis for required training. Attached are excerpts from the CSW to illustrate the existence and significance of training related to use of small, minority, and women-owned businesses. The excerpts include a cross-reference between FAR Part 19 and CSW units of instruction, along with units of instruction covering market research, set-asides, and subcontracting requirements.

Attachments:
1. FAR Cross Reference (from CSW)
2. CSW Unit 5, Market Research
3. CSW Unit 11, Set Asides
4. CSW Unit 49, Subcontracting Requirements
5. CSW Unit 57, Subcontracting Requirements

FAR CROSS REFERENCE

FAR §	Unit	Unit Title *(Relevance of FAR § to the Unit)*
16.603	**19**	Unpriced Contracts. *Letter contracts.*
16.7	**18**	Recurring Requirements. *Agreements.*
16.703	**60**	Task And Delivery Order Contracting. *Basic Ordering Agreements.*
17.1	**18**	Recurring Requirements. *Multiyear contracting.*
17.106-2	**14**	Price Related Factors *Soliciting multiyear offers.*
17.106-2(b) & (c)	**37**	Price Analysis (Negotiation). *Evaluating multiyear offers.*
17.2	**18**	Recurring Requirements. *Options.*
17.200 & 17.201	**59**	Options. *Options.*
17.203	**14**	Price Related Factors *Options as a price-related factor.*
17.206	**14**	Price Related Factors *Options as a price-related factor.*
17.206	**33**	Price Analysis (Sealed Bidding). *Evaluating options. See also FAR 52.217-3 through 52.217-5.*
17.206	**37**	Price Analysis (Negotiation). *Evaluating options.*
17.207	**59**	Options. *Exercise of options.*
17.5	**9**	Sources. *Interagency acquisitions under the Economy Act.*
19.001	**11**	Set-Asides *Definitions (e.g., of "concern", "fair market price", "nonmanufacturer rule", etc.)*
19.1	**11**	Set-Asides *Size standards.*
19.1	**35**	Processing Quotes and Proposals. *Rejecting offers from large business concerns for set-aside awards*
19.1	**48**	Responsibility. *Eligibility for set asides.*
19.101 & 102	**53**	Protests. *Size standards.*

FAR CROSS REFERENCE

FAR §	Unit	Unit Title *(Relevance of FAR § to the Unit)*
19.201	**11**	Set-Asides *General policy on small and small disadvantaged business concerns.*
19.201	**15**	Non-Price Evaluation Factors. *Extent of participation of SDB concerns in contract performance as a mandatory evaluation factor in unrestricted acquisitions expected to exceed $500,000 ($1,000,000 for construction).*
19.202-1	**6**	Requirements Documents. *Encouraging small business participation in acquisitions.*
19.202-1(a) & (b)	**14**	Price Related Factors *Providing for more than one award when that would allow small business concerns to compete for part of the requirement.*
19.202-1(e)	**11**	Set-Asides *Notifying SBA when small business are not likely to be able to compete for a new requirement for supplies or services currently being provided by a small business.*
19.202-2	**5**	Market Research. *Locating small business sources.*
19.202-2(a)	**9**	Sources. *Including small businesses on mailing lists.*
19.202-3	**33**	Price Analysis (Sealed Bidding). *Equal low bids.*
19.202-4	**26**	Solicitation Preparation. *Time requirements for opening and closing dates.*
19.202-5	**11**	Set-Asides *Reporting participation by small businesses in acquisitions.*
19.202-6	**11**	Set-Asides *Fair market price determinations.*
19.202-6	**33**	Price Analysis (Sealed Bidding). *Determination of fair market prices.*
19.202-6	**37**	Price Analysis (Negotiation). *Fair market pricing for small business set asides.*
19.301	**35**	Processing Quotes and Proposals. *Rejecting offers from large business concerns for set-aside awards*
19.301	**48**	Responsibility. *Eligibility for set asides.*
19.301	**53**	Protests. *Representation by the offeror of status as a small business concern.*
19.302	**53**	Protests. *Protesting a small business representation.*
19.303	**11**	Set-Asides *Product or service classifications (i.e., SIC codes).*

FAR CROSS REFERENCE

FAR §	Unit	Unit Title *(Relevance of FAR § to the Unit)*
19.304	**11**	Set-Asides *Solicitation provisions.*
19.304	**51**	Issuing Awards and Related Notices. *Notice to SBA of potential awards to offerors with pending SDB applications.*
19.305	**53**	Protests. *Protesting representation as a small disadvantaged business concern for the purpose of obtaining a price adjustment under FAR 52.219-23.*
19.306	**53**	Protests. *Protesting representation as a HUBZone small business concern.*
19.4	**0**	Orientation. *Small Business Administration.*
19.4	**11**	Set-Asides *Cooperation with the Small Business Administration.*
19.402	**3**	Purchase Requests. *Release of information to SBA procurement center representatives.*
19.5	**11**	Set-Asides *Set-asides for small businesses.*
19.501(g)	**33**	Price Analysis (Sealed Bidding). *No award under a set aside if cost exceeds the "fair market price."*
19.502-2(a)	**12**	8(a) Procurements. *Use of the 8(a) program in acquiring supplies and services under SAT.*
19.502-4	**35**	Processing Quotes and Proposals. *Rejecting offers from large business concerns for set-aside awards*
19.506(a)	**33**	Price Analysis (Sealed Bidding). *No award under a set aside if cost exceeds the "fair market price."*
19.6	**48**	Responsibility. *Certificates of competency.*
19.7	**49**	Subcontracting Requirements. *Subcontracting with small business, HUBZone small, small disadvantaged business concerns, and women-owned small business concerns.*
19.705-6	**51**	Issuing Awards and Related Notices. *Notice to SBA when the contract includes a subcontracting plan.*
19.705-6	**57**	Subcontracting Requirements. *Post-award responsibilities of the contracting officer for subcontracting plans.*
19.705-7	**57**	Subcontracting Requirements. *Liquidated damages for violations of subcontracting plans.*
19.706	**57**	Subcontracting Requirements. *Responsibilities of the cognizant ACO.*
19.706	**81**	Administering Socio-Economic And Misc. Terms And Conditions. *Responsibilities of the cognizant ACO.*

FAR CROSS REFERENCE

FAR §	Unit	Unit Title *(Relevance of FAR § to the Unit)*
19.707(a)(4)	**57**	Subcontracting Requirements. *SBA's role*
19.707(a)(4)	**81**	Administering Socio-Economic And Misc. Terms And Conditions. *SBA's role*
19.8	**12**	8(a) Procurements. *Contracting with the Small Business Administration (the 8(a) program).*
19.812	**83**	Termination. *Requirement to terminate 8(a) contracts for convenience when the 8(a) concern transfers ownership or control of the firm (unless SBA waives the requirement).*
19.10	**11**	Set-Asides *Small business competitiveness demonstration program.*
19.11	**14**	Price Related Factors *Price evaluation adjustment for small disadvantaged business concerns.*
19.11	**33**	Price Analysis (Sealed Bidding). *Adjusting prices based on the Department of Commerce prescribed factors for small disadvantaged business concerns.*
19.11	**37**	Price Analysis (Negotiation). *Adjusting prices based on the Department of Commerce prescribed factors for small disadvantaged business concerns.*
19.12	**36**	Applying Past Performance, Technical, And Other Non-Price Factors. *Applying the SDB factor; evaluating past performance of offerors in complying with subcontracting plan goals for SDB concerns, monetary targets for SDB participation, and notifications submitted under 19.1202-4(b).*
19.1202	**15**	Non-Price Evaluation Factors. *Extent of participation of SDB concerns in contract performance as a mandatory evaluation factor in unrestricted acquisitions expected to exceed $500,000 ($1,000,000 for construction).*
19.1203	**49**	Subcontracting Requirements. *Negotiating monetary incentives or award fee factors for exceeding monetary targets for SDB participation.*
19.13	**11**	Set-Asides *Historically Underutilized Business Zone Program.*
19.1307	**14**	Price Related Factors *Price evaluation preference for HUBZone small business concerns.*
22.101	**81**	Administering Socio-Economic And Misc. Terms And Conditions. *Labor relations and work stoppages.*

UNIT 5 MARKET RESEARCH

September 1998

Part A: Market Investigation

Duties	1. Obtain data from acquisition histories and other in-office sources. 2. Collect and compile additional market information.
Conditions	Given forecast requirements, acquisition plans (if any), Purchase Requests (if any at this stage of the acquisition), related contract files, and other reference materials (e.g., current contracts, prior contracts, catalogs, trade journals, and commodity indices).
Overall Standard(s)	Identify all relevant sources of information available within and outside the contracting activity. Extract and compile data necessary for analyzing the requirement, determining the extent of competition, source selection planning, establishing solicitation provisions and clauses, soliciting offers, evaluating offers, and awarding contracts. Comply with the requirement in FAR 7.102 to conduct market research for all acquisitions.

UNIT 5 MARKET RESEARCH

September 1998

Part B: Exchanges Prior to Soliciting.

Duties	1. Determine whether and how to initiate exchanges of information with prospective offerors prior to soliciting. 2. Coordinate and participate in early exchanges.
Conditions	Given forecast requirements, acquisition plans (if any), Purchase Requests (if any at this stage of the procurement), related contract files, and results of preliminary market investigation (Part A).
Overall Standard(s)	Correctly identify the method(s) of exchange that best fits the requirement, in terms of improving the Government's ability to obtain quality supplies and services at reasonable prices, and/or increased efficiency in proposal preparation, proposal evaluation, negotiation, and contract award. Exchanges are effective in terms of: (a) Helping prospective offerors make better decisions about whether or not it will be worth their while to compete for the award. (b) Enabling prospective offerors to prepare initial offers that will better meet the Government's functional requirements (in terms of quality, total acquisition cost, timeliness, et. al.). (c) Enabling the Government to prepare solicitations that will optimize the acquisition process and result. All exchanges are consistent with procurement integrity requirements (see FAR 3.104). Do not disclose information from prospective offerors if doing so would reveal that offeror's confidential business strategy, and would be protected under FAR 3.104 or FAR Subpart 24.2. When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information shall be made available to the public as soon as practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage. When conducting exchanges, be careful not to give the appearance of favoring one potential offeror over another. Ensure that comparable access to Government officials is granted to all potential offerors.

UNIT 5 MARKET RESEARCH

Policies

FAR	*Agency Suppl.*	*Subject*
2.101		Definition of market research.
4.8		Contract files (in terms of information that should be available for reconstructing acquisition histories).
5.204 5.205(a)-(b)		Synopsis requirements for presolicitation and other advance notices.
5.405		Obtaining acquisition information from other agencies.
6.303-2(a)(8)		Market research for other than full and open competition.
7.102		Requirement to conduct market research as part of acquisition planning.
7.103(l) & (q)		Requirements to review acquisition histories and descriptions of the supplies or services
7.2		Economic purchase quantities.
7.403		GSA assistance.
10		FAR Part on market research
11.002		Specifying needs using market research.
12.101		Market research to determine whether commercial or non-developmental items are available.
14.205-1(d)		Solicitation mailing list applications.
15.201 & 15.202		Exchanges with industry before receipt of proposals; advisory multi-step process.
19.202-2		Locating small business sources.
35.004		Market research for R&D.
39.101		Market research to assess changing nature of information technology.
47.205		Availability of GSA and DoD term contracts for transportation services.
52.215-3		Requests for Information or solicitations for planning purposes.

Other KSA's

1. Knowledge of market research and sources of data on markets (from Marketing); skill in identifying market data relevant to Federal Contract Management business decisions — including the definition of "market research" at FAR 2.101: "collecting and analyzing information about capabilities within the market to satisfy agency needs". [§2.101]

2. Skill at market analysis; knowledge of business goals and strategies, market environments, market measurement and forecasting, market segments and product differentiation, product life cycles and market evolution, market prices, market channels/middlemen, physical distribution, industrial markets, and source selection factors and procedures in industrial and public markets (from Marketing).

3. Knowledge of business trends, cycles, and forecasting.

4. Knowledge of the fundamentals of supply and demand; knowledge of derived demand and the determination of factor-prices.

5. Knowledge of on-line information services and skill at using terminals to access and download data from the services.

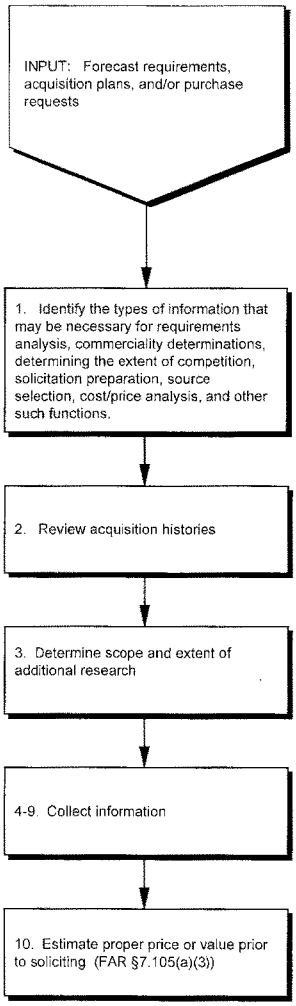
UNIT 5 MARKET RESEARCH

6. Knowledge of sources of financial information on markets and individual firms.

Other Policies and References (Annotate As Necessary):

UNIT 5 MARKET RESEARCH

Part A: Market Investigation



UNIT 5 MARKET RESEARCH

Part A: Market Investigation

Tasks	Related Standards
1. Identify types of market information needed for the acquisition. • Availability of commercial and nondevelopmental items. - Salient characteristics. - Prices. - Price/feature tradeoffs. - Support services. - Product reliability and history. - Typical customizing, modifying or tailoring for commercial customers. - Potential cost of modifying the item to meet particular needs. • Commercial Practices and Trends: - Commercial specifications and industry standards. - Customary terms and conditions (e.g., discounts, warranties, buyer financing, et. al.) - Laws and regulations unique to the item. - Production and delivery lead-times. - Technological/product changes and forecasts. - Trends in market prices. - Trends in supply/demand. - Factors that affect market prices (e.g., cost of money, raw materials prices). • Available sources: - Status (e.g., small business, women-owned small business concern, other). - Past performance. - Market shares and niches. - Market/corporate strategies. - Production capability - Distribution and support capabilities. - Technical strengths and weaknesses. - Business and organizational strengths and weaknesses - Patent and data rights. • Practices and trends in Federal procurements of the same or similar requirements. - Other Federal buyers. - Trends in Federal demand. - Trends in prices paid by the Federal Government and procurement lead-times. - Problems and issues in the award and administration of prior contracts. - Applicable laws and regulations.	A1. Correctly list the major categories of market information. For each type of information, correctly identify related contracting duties and describe how the information can be applied in performing each such duty. Comply with the requirement at FAR 10.001(a)(3)(ii) for researching the availability of commercial items or (to the extent commercial items suitable to meet the agency's needs are not available) nondevelopmental items. Comply with the requirement at FAR 10.001(3)(a)(iv) for researching the practices of firms engaged in producing, distributing, and supporting commercial items, such as terms for warranties, buyer financing, maintenance and packaging and marking. Comply with the requirement at FAR 10.001(a)(3)(i) for conducting market research to determine if sources capable of satisfying the agency's requirements exist.

UNIT 5 MARKET RESEARCH

Part A: Market Investigation

Tasks	Related Standards
2. Review acquisition histories on current or prior contracts for the same or similar requirements. • Contract files. • Contacts with other buyers who have experience in buying the supply or service.	A2. Comply with the requirements in FAR 7.103(l) to review acquisition histories and descriptions of the supplies and services to be procured.
3. Determine the scope and extent of additional research. • Review information already in hand (including your personal knowledge of the market from prior contract actions, information supplied by the requiring activity, and the findings of recent research on like requirements). • Identify information deficiencies. • Select sources of additional information. • Plan the collection of additional market information (i.e., when and how) during the acquisition planning, presolicitation, solicitation, and evaluation phases. • Consult the acquisition team about roles and responsibilities for conducting additional market research.	A3. Identify all readily available sources of market information within the contracting office; extract all pertinent information. In determining the extent of additional research, consider such factors as urgency, estimated dollar value, complexity, and past experience. Do not invest more resources (e.g., lead-time, available staffhours, and money) in market research than are warranted by the potential benefits. When acquiring items under the Simplified Acquisition Threshold, conduct market research only when adequate information is not available and the circumstances justify the cost of such research.
4. Identify and collect data from catalogs, periodicals, and other published or interactive on-line sources. • Consumer Reports on-line • Yellow pages. • Commercial catalogs. • Thomas Register. • Vendor files. • Mandatory and optional schedules; BOAs. • Trade journals. • Public news media. • Procurement directories. • Product brochures and promotional literature. • Tariffs. • Commodity indices. • Other data collected and compiled for the contracting office.	A4. Correctly identify all potential sources and the types of data typically available from each such source.

UNIT 5 MARKET RESEARCH

Part A: Market Investigation

Tasks	Related Standards
5. Collect data from Government buyers, commodity specialists, technical experts, and other market researchers — e.g., through interactive, on-line communication among industry, acquisition personnel, and customers.	A5. Correctly identify all potential Government sources and the types of data typically available from each such source.
6. Collect data from industry buyers, State and local Governments, and other non-Federal buyers. • Through interactive, on-line communication among industry, acquisition personnel, and customers. • Through low tech phone or mail surveys of buyers in the market. • Through direct contacts with customers referenced by the contractor.	A6. Correctly identify the types of data typically available from buyers and methods of obtaining the data from them.
7. Collect data from trade and professional associations (e.g., Better Business Bureau and the Chamber of Commerce) and State and local Government watchdog agencies.	A7. Correctly identify the types of data typically available from such organizations and methods of obtaining the data from them.
8. Collect data from non-profit product standards and testing organizations.	A8. Correctly identify the types of data typically available from such organizations and methods of obtaining the data from them.
9. Collect data from suppliers. • Phone surveys or formal questionnaires (i.e., Solicitation Mailing List Applications, market surveys, etc.). • Sources sought synopses. • Unsolicited comments and complaints regarding previous procurements. • Through exchanges per Part B of this Unit.	A9. Correctly identify the types of data typically available from suppliers and methods of obtaining the data from them.

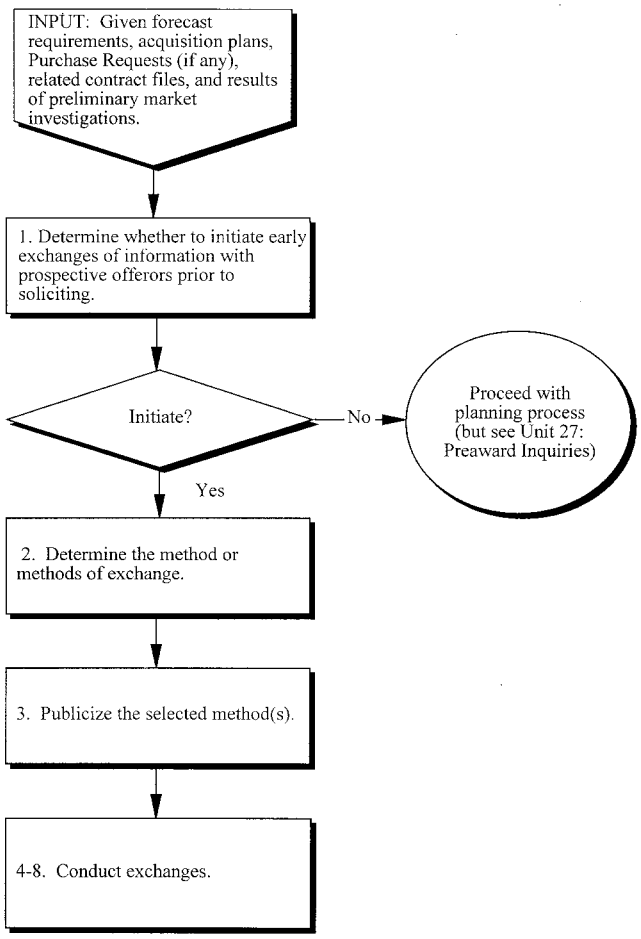
UNIT 5 MARKET RESEARCH

Part A: Market Investigation

Tasks	Related Standards
10. Prior to soliciting, estimate the price and/or total (e.g., life cycle) acquisition cost of the supplies or services (per FAR 7.105(a)(3).	A10. Correctly calculate the probable range of prices that will be offered and key cost drivers.

UNIT 5 MARKET RESEARCH

Part B Exchanges Prior To Soliciting



UNIT 5 MARKET RESEARCH

Part B Exchanges Prior To Soliciting

Tasks	Related Standards
1. Determine whether to initiate early exchanges of information with prospective offerors.	B1. For the requirement at hand, correctly identify the potential benefits of such exchanges and determine whether those benefits would outweigh the Government's administrative costs.
2. Selected a method or methods for exchanging information. Exchange Methods: • Industry panels. • Requests for Information (RFI) • Presolicitation notice. • Presolicitation conferences. • One-on-One Meetings. • Public Hearings.	B2. Correctly select the exchange method or methods (if any) that best fit the procurement. Accurately describe the pros and cons of available methods in terms of the overall standard for this duty. The method selected should reflect the complexity and risks associated with the acquisition. For instance, a public hearing would not be required for simple, straight forward requirements. Industry panels ordinarily are held prior to drafting requirements documents as a an invaluable preliminary to the drafting job. Requests for Information (RFIs) are most appropriate for relatively complex requirements, that are difficult to explain in a CBD synopsis. RFIs allow the Government to explain their needs in length and support the submission of relatively voluminous data from potential offerors.
3. Publicize the selected method of exchange (except one-on-ones). (The special notices of procurement matters at 5.205(c), or electronic notices, may be used to publicize the Government's requirement or solicit information from industry.)	B3. Advertise early industry involvement opportunities, whenever possible, by placing notices in the CBD, or by posting notices electronically on public bulletin boards, Internet homepages, etc. Be careful not to give the appearance of favoring one potential offeror over another. Ensure that comparable access to Government officials is granted to all potential offerors.

UNIT 5 MARKET RESEARCH
Part B Exchanges Prior To Soliciting

Tasks	Related Standards
4. Establish and conduct industry panels to assist in developing specifications. Subtasks: • Publicize panel meeting schedule. • Select members. • Establish goals of the panel. • Lead discussions. • Brief requiring activities on their roles.	B4. Select a representative sample of suppliers. Identify successful commercial approaches. Open panel meetings to the public. Make all information provided to the panel, along with complete transcripts of the panel sessions, available to other interested parties, along with all comments and recommendations from the panel. (Usually done before drafting requirements documents.)
5. Issue Requests for Information or solicitations for planning purposes.	B5. Incorporate the provision at 52.215-3, Request for Information or solicitation for planning purposes.
6. Draft presolicitation notices. Subtasks: • Synopsize availability of notice. • Provide condensed version of the proposed statement of work. • Request feedback on the proposed statement of work. • Request expression of interest in the contemplated acquisition by a specified date. • Invite to presolicitation conference (if any).	B6. Mail to known suppliers. Precisely define the information to be furnished by respondents in their responses. The presolicitation notice comply with FAR 15.201 and 202 and agency policies. Send copies of the solicitation to all respondents who respond affirmatively to the presolicitation notice.
7. Conduct presolicitation conferences. Subtasks: • Identify technical, legal, and other participants. • Brief technical, legal, and other participants on their roles. • Identify, synopsize, and mail presolicitation notices to prospective industry participants. • Open conference and brief participants on the proposed requirement. • Answer questions. • Obtain verbal feedback on statement of work. • Identify interest in submitting offers • Provide opportunity for on-site visit so that potential offerors can observe current operations under the existing contract (where applicable)	B7. Do not use such conferences to prequalify offerors. Provide copies of the solicitation to all organizations that are represented at the conference. (See Unit 28) Make materials distributed at the conference available to all potential offerors upon request.

UNIT 5 MARKET RESEARCH
Part B Exchanges Prior To Soliciting

Tasks	Related Standards
8. Conduct one-on-one meetings. • Identify prospective offerors for the meetings. • Determine scope of the meeting and participants. • Conduct the meetings. • Make specific information necessary for proposal preparation available to all prospective offerors as prescribed by FAR 15.201(f).	B8. Invite all prospective offerors known at the time of the meeting, For example: • Prior to any publicity, all on the solicitation mailing list. • All (and only those on the mailing list) who responded to an RFI and expressed interest in competing for award. • All who attended a presolicitation or preproposal conference or site visit. Include the contracting officer in any meeting that might substantially involve potential contract terms and conditions. Avoid any appearance of "wiring" the procurement (e.g., by inserting suggested language in requirements documents, when that language provides no obvious benefit to the Government in terms of mission accomplishment and is tailored to one particular offeror's deliverables or capabilities). If you disclose specific information about a proposed acquisition that would be necessary for proposal preparation to one or more potential offerors, make that information available to the public as soon as practicable, but no later than the next general release of information. On the other hand, do not disclose information if doing so would reveal the potential offeror's confidential business strategy, and would be protected under 3.104 or Subpart 24.2.

11 SET ASIDES

February 1999

Duty	Determine whether competition will be limited exclusively to small business concerns.
Conditions	Given Purchase Requests, acquisition histories, and market data.
Overall Standard(s)	Competition is limited to small business concerns only when you reasonably expect (a) eligible offers or quotes from at least two responsible small business concerns and (b) award at fair market prices.

11 SET ASIDES

Policies

FAR	*Agency Suppl.*	*Subject*
13.102		Purpose of SAP in part to improve opportunities for small business and small disadvantaged business concerns to obtain a fair proportion of Government contracts.
13.003(b)(1)		Reservation of requirements exceeding the micropurchase threshold but within SAT exclusively for small business concerns.
19.001		Definitions (e.g., of "concern", "fair market price", "nonmanufacturer rule", etc.)
19.1		Size standards.
19.201		General policy on small and small disadvantaged business concerns.
19.202-1(e)		Notifying SBA when small business are not likely to be able to compete for a new requirement for supplies or services currently being provided by a small business.
19.202-5		Reporting participation by small businesses in acquisitions.
19.202-6		Fair market price determinations.
19.303		Product or service classifications (i.e., SIC codes).
19.304		Solicitation provisions.
19.4		Cooperation with the Small Business Administration.
19.5		Set-asides for small businesses.
19.10		Small business competitiveness demonstration program.
19.13		Historically Underutilized Business Zone Program.
52.219-3		Notice of Total HUBZone set aside.
52.219-6 – 9, 11-12 52.219-14		Related provisions and clauses.

Other KSA's

1. Skill at market analysis; knowledge of techniques for evaluating industry size and capabilities, market segments and product differentiation, market prices, market channels/middlemen, and industrial markets (from Marketing).

2. Ability to forecast impact of a potential set aside on price, the solicitation process, delivery schedules, and the ability to meet the Government's minimum need.

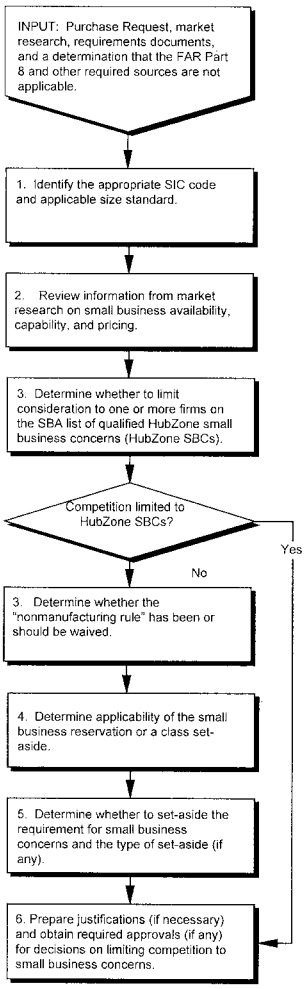
3. Knowledge of information sources on small businesses (e.g., SBA's PRONET).

4. Knowledge of notes for CBD synopses.

5. Knowledge of the role of SBA procurement center representatives, including breakout representatives.

Other Policies and References (Annotate As Necessary):

11 SET ASIDES



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11 SET ASIDES

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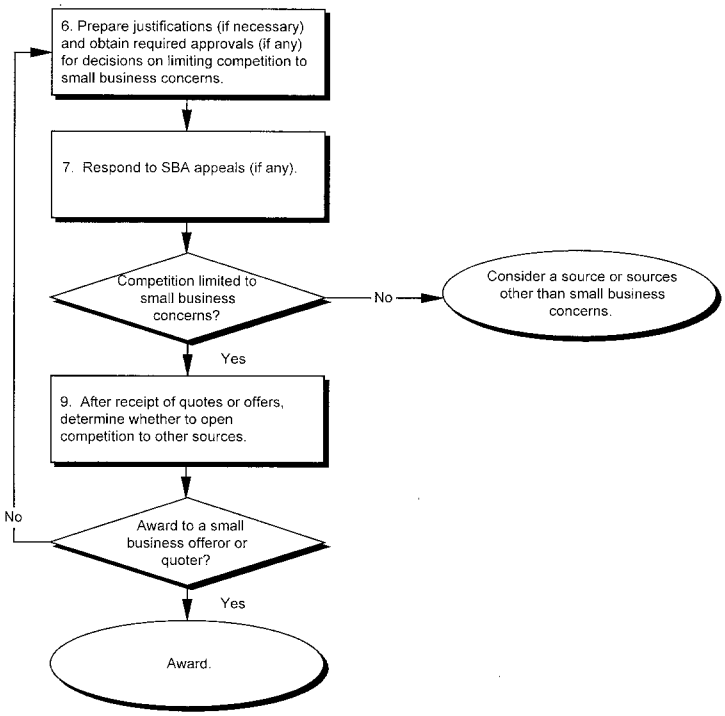


11 SET ASIDES

Tasks	Related Standards
1. Determine the appropriate Standard Industrial Classification code and applicable size standard. • If a firm appeals this determination to SBA, file a response within 5 business days after receipt of the appeal.	1. Classify a product or service in that one industry whose definition best describes the principal nature of the product or service being acquired. When acquiring a product or service that could be classified in two or more industries with different size standards, apply the size standard for the industry accounting for the greatest percentage of the contract price.
2. Review information from market research on small business availability, capability, and pricing. • Production capabilities (quantity) of small businesses. • Market prices. • Lead-times. • Ability to meet the technical requirement. • SBA's list of	
3. Determine whether to limit consideration to one or more firms on the SBA "List of Qualified HUBZone Small Business Concerns" (HUBZone SBCs) . Among the possibilities: • Sole source award to an HUBZone SBC. • At or below SAT, an optional set-aside for HUBZone SBCs. • If over SAT, a mandatory set-aside for HUBZone SBCs.	3. Only consider a sole source award if: • Only one HUBZone small business concern can satisfy the requirement; • The anticipated price of the contract, including options, will not exceed— ✓ $5,000,000 for a requirement within the Standard Industrial Classification (SIC) codes for manufacturing; or ✓ $3,000,000 for a requirement within any other SIC code; • The requirement is not currently being performed by a non-HUBZone small business concern; • The acquisition is greater than the SAT; • The HUBZone small business concern has been determined to be a responsible contractor with respect to performance; and • Award can be made at a fair and reasonable price. Only set aside for HUBZone SBCs if you expect (i.e., a "reasonable" expectation) to receive acceptable quotes or offers from two or more qualified HzSBCs at a fair market price. (When contracting for supplies, consider a non-manufacturer HUBZone SBC "qualified" only if it agrees to furnish only end products that are manufactured or produced by HUBZone SBCs).

11 SET ASIDES

Tasks	Related Standards
4. Determine whether the "nonmanufacturing rule" has been waived or should be waived. Subtasks: • Check the requirement against the SBA list of classes of products for which the nonmanufacturing rule has been waived. • If an existing SBA class waiver does not apply, determine whether to request: - A class waiver, - A waiver for the specific solicitation, or - No waiver. (for the current list of SBA waivers, see http://www.sba.gov/GC/ollie.html)	4. Correctly determine whether any small business concern would be eligible for the set aside under the nonmanufacturing rule. Under that rule, you may award a set aside contract to a small business reseller ONLY if the reseller: • Employs less than 500 employees, AND • Offers a product made in the USA by a domestic small business manufacturer or producer. Only consider a waiver if: • Neither you nor SBA have any reasonable expectation that the solicited products would be offered by known domestic small business manufacturers or processors, AND • Products made by large business(es) or in foreign plants are available from small business resellers. Correctly determine which, if any, products from nonmanufacturers would be eligible for award under a potential set aside if the nonmanufacturing rule IS WAIVED. If the nonmanufacturing rule is waived, you may award under the set aside to a small business reseller which: • Employs less than 500 employees, • Is primarily engaged in the wholesale or retail trade, AND • Is a regular dealer, as defined pursuant to 41 U.S.C. 35(a) (see 22.601), in the product to be offered unless specifically exempted from section 35(a) by section 7(j)(13)(C) of the Small Business Act.
5. Determine applicability of the small business reservation or a class set-aside.	5. Correctly determine whether the requirement is covered by the small business reservation (i.e., any requirement under SAT) or a class set-aside.

11 SET ASIDES

Tasks	Related Standards
6. Determine whether to set-aside the requirement for small business concerns and the type of set-aside (if any). Given the determination: • Select and incorporate related provisions and clauses in the solicitation (or, of soliciting orally, give potential quoters information substantially identical to that which is in required provisions and/or clauses) • Select and/or prepare the appropriate Note or language for the Commerce Business Daily.	6. Contract on an unrestricted basis if you do not expect (i.e., a "reasonable" expectation) to receive quotes or offers from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery. Otherwise: • If the requirement is reserved for small business concerns or covered by a class set-aside, restrict competition to small business concerns (but see Subpart 19.10 for the "Small Business Competitiveness Demonstration Program"). • For other requirements, correctly apply the criteria at FAR 19.502 through 19.503 in determining whether and the type of set-aside to establish. In particular, comply with the prescribed order of preference for set-asides: Implied Order of Priority [19.504 being reserved]: 1 A total set-aside for small business concerns. 2 A partial set-aside for small business concerns 3 No set aside. Note: The FAR supplements for Defense agencies, NASA, and Coast Guard establish a different order of precedence.
7. Prepare justifications (if necessary) and obtain required approvals (if any) for decisions on limiting competition to small business concerns. In particular, prepare justifications for decisions to: • Open competition to all sources for requirements covered by the small business reservation. • Withdraw an individual set-aside. • Withdraw or modify class set-asides. • Reject recommendations from SBA procurement center representatives or small business specialists (e.g., a recommendation to award a sole source contract to an HzSBC or set aside award for HzSBCs).	7. Provide written notice within 5 business days to the SBA procurement center representative if the representative's recommendation has been rejected. When supplies or services are currently being provided by a small business but the new requirement (in terms of quantity or estimated dollar value) would make "it unlikely that small businesses can compete for the prime contract", provide a copy of the proposed acquisition package to the SBA procurement center representative at least 30 days prior to issuing the solicitation. Prepare and include the statement required by FAR 19.202-1.

11 SET ASIDES

Tasks	Related Standards
8. Respond to SBA appeals of decisions on limiting competition to small business concerns. • Justifications for the head of the contracting activity or his/her designee. • Suspension of action while under appeal or a written determination to proceed in face of SBA appeal.	
9. After receipt of quotes or offers, determine whether to open competition to other sources.	9. If the procurement has been set aside for HUBZone SBCs, withdraw the HUBZone SBC set-aside if you receive no acceptable offer (i.e., an offer that is technically acceptable and at a fair and reasonable price) from any HUBZone SBC (and, in that case, next consider a set aside for small business concerns). Solicit quotes from large business concerns for actions under SAT if you are unable to obtain offers from two or more small business concerns that are competitive with market prices and with regard to the quality and delivery of the goods or services being purchased. Over SAT, develop a sound, documented position on whether award to a small business concern would be detrimental to the public interest (e.g., payment of more than a fair market price). If detrimental, the contracting officer may withdraw the set-aside determination whether it was unilateral or joint. Initiate withdrawal by giving written notice to the agency small business specialist and the SBA procurement center representative, if one is assigned, stating the reasons.

UNIT 49 SUBCONTRACTING REQUIREMENTS

February 1999

Part A: Establishing Subcontracting Requirements	
Duty	Incorporate subcontracting requirements in the solicitation.
Conditions	Given purchase requests, acquisition histories, and market data.
Overall Standard(s)	Incorporate the applicable provisions and clauses.

Part B: Evaluating Subcontracting Plans	
Duty	Approve or disapprove subcontracting plans for inclusion in the contract.
Conditions	Given the solicitation and a proposed subcontracting plan.
Overall Standard(s)	Approved subcontracting plans must provide the maximum practicable opportunities for small, HUBZone, small/disadvantaged, and women-owned businesses to obtain subcontracts.

Part C: Make-Or-Buy Programs	
Duty	Negotiate a make-or-buy program.
Conditions	Given a submitted make-or-buy program and supporting data, acquisition histories, and market data.
Overall Standard(s)	In preparing prenegotiation positions on the submitted program, account for all factors listed in FAR 15.407-2. Correctly determine whether the negotiated program must be incorporated in the contract.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Policies

FAR	*Agency Suppl.*	*Subject*
15.407-2		Make-or-buy programs.
19.7		Subcontracting with small business, HUBZone, small disadvantaged business concerns, and women-owned small business concerns.
19.1203		Negotiating monetary incentives or award fee factors for exceeding monetary targets for SDB participation.
26.1		Indian incentive program.
52.219-8 through 219-10;		Small business subcontracting requirements.
52.219-25 & 52.219-26		Clauses related to monetary incentives or award fee factors for exceeding monetary targets for SDB participation.
52.226-1		Indian incentive program.

Other KSA's

1. Knowledge of sources of information on markets and market research techniques to determine realistic small business and small disadvantaged business subcontracting goals.

Other Policies and References (Annotate As Necessary):

UNIT 49 SUBCONTRACTING REQUIREMENTS

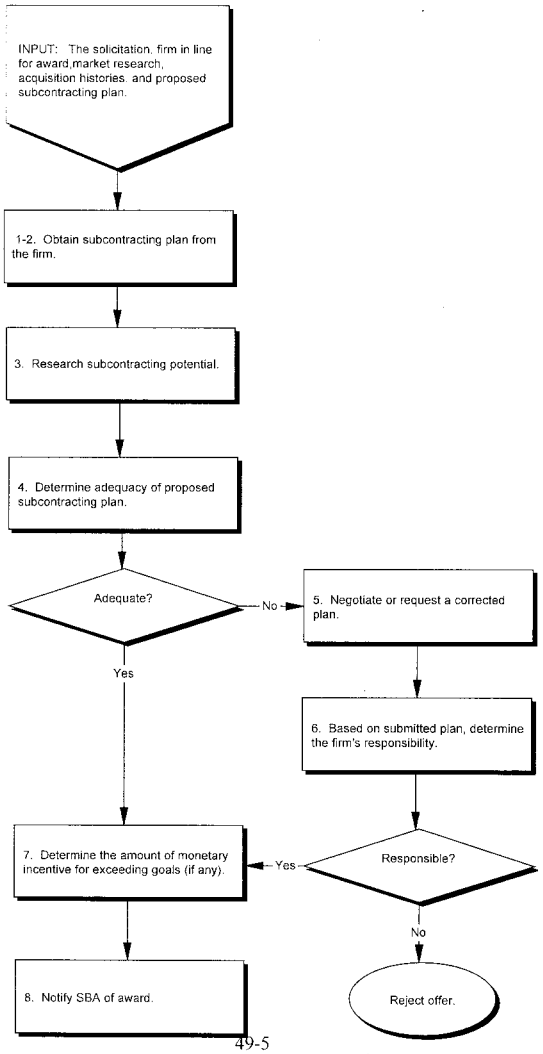
Part A: Establishing Subcontracting Requirements

1. Incorporate requirements in the solicitation and resulting contract to subcontract with Small, HUBZone, Small Disadvantaged and Women-Owned Small Business Concerns.	A1. Incorporate the clause at 52.219-8 unless the contract: • Will not exceed SAT. • Will be performed (including all related subcontracts) entirely outside the United States, its territories and possessions, and Puerto Rico, or • Is for personal services.
2. Incorporate a requirement in the solicitation and resulting contract for a Small Business Subcontracting Plan.	A2. Only require a subcontracting plan when the contract: • Offers subcontracting possibilities, • Is expected to exceed $500,000. • Includes the clause at 52.219-8, • Is not being accomplished through the 8(a) program, and • The offeror is not a small business. Determinations about subcontracting possibilities and dollar thresholds should conform to the policies in FAR 19.705-2. If a subcontracting plan is to be required, provide the SBA resident procurement center representative time to review the solicitation and submit advisory findings before issuance.
3 If a subcontracting plan is required, also incorporate the clause at 52.226-1 (Utilization of Indian Organizations and Indian-Owned Economic Enterprises).	A3 In non-Defense agencies, incorporate the clause only if: • Subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises, and • Funds are available for equitable adjustments under the clause.
4. Incorporate a requirement in the solicitation for a proposed make-or-buy program. Include: • A statement that the program and required supporting information must accompany the offer. • Factors for evaluating the proposed program (e.g., capability, capacity, availability of small business concerns for subcontracting, delivery or performance schedules, control of technical and schedule interfaces, proprietary processes, technical superiority or exclusiveness, and technical risks involved.) • Types of information required to support the proposed make-or-buy decisions for each major item or work effort, including the identification of proposed subcontractors, if known, and their location and size status (see also Subpart 19.7 for subcontracting plan requirements).	A4. Require prospective contractors to submit make-or-buy programs for all negotiated acquisitions whose estimated value is $5 million or more, except when the proposed contract— • Is for R&D, with no significant follow-on production under the same contract; • Is exempt from requirements for certified cost and pricing data; or • Only involves only non-complex work. Also require prospective contractors to submit make-or-buy programs for negotiated acquisitions whose estimated value is under $5 million if that information is necessary.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part A: Establishing Subcontracting Requirements

Evaluating Subcontracting Plans



UNIT 49 SUBCONTRACTING REQUIREMENTS

Part B: Evaluating Subcontracting Plans

Tasks	Related Standards
1. Request the subcontracting plan from the offeror. • May be either a plan for this individual procurement or a Commercial Plan (i.e., umbrella company-wide or division-wide) for a number of contracts. • If it is a Commercial Plan, ensure it applies to this contract (e.g., right time period). • May incorporate by referencing an approved plant-wide or division-wide master subcontracting plan, with individual goals for this specific contract.	B1. Request and obtain subcontracting plans within an established timeframe but before award. Provide a copy to the SBA resident procurement center representative of the plan, supporting documentation, and the rest of the contract. Per FAR 19.701, a "commercial plan" is a subcontracting plan (including goals) that that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line)" [1]
2. Provide a copy of the contract to the SBA resident procurement center representative, including the subcontracting plan and supporting documentation.	

[1] FAC 97-05.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part B: Evaluating Subcontracting Plans

Tasks	Related Standards
3. Conduct factfinding on the subcontracting plan with help from the SBA resident procurement center representative and/or the Small Business Specialists).	B3. Obtain data on such matters as: • The offeror's past performance in awarding subcontracts for the same or similar products or services to mall, HUBZone small, small/ disadvantaged, and women-owned businesses. • The offeror's overall past performance in awarding subcontracts to mall, HUBZone small, small/ disadvantaged, and women-owned businesses. • The offeror's make or buy program, in terms of identifying potential conflicts with the proposed subcontracting plan. • Subcontracting potential, given the offeror's make or buy policies and programs, nature of the items to be subcontracted, the known availability of small, HUBZone small, small/ disadvantaged, and women-owned businesses in the area where the work is to be performed, and the offeror's longstanding contractual relationships with suppliers.
4. With assistance from the SBA resident procurement center representative and/or the Small Business Specialists, determine whether the plan is adequate. Criteria for evaluating the offeror's goals and plans: • Completeness, in terms of the requirements in FAR 19.704. • Attainability, given— - Subcontracting opportunities. - Pool of eligible subcontractors. - Previous involvement of small business concerns as prime contractors or subcontractors in similar acquisitions. - Proven methods of involving small business concerns as subcontractors in similar acquisitions. - Actual performance by such contractor against prior plans. - The relative success of methods the contractor intends to use to meet the goals and requirements of the plan, as evidenced by records maintained by the contractor. • Consistency with "make-or-buy" policy. • Consistency with pricing information supplied by the offeror (per Unit 38)[2]	B4. Check the submitted plan against the elements, information, goals and assurances required by FAR 19.704. Do not accept zero goals. Set subcontracting goals at a level that the parties reasonable expect can result from good faith efforts by the offeror to use small, HUBZone, and small disadvantaged contractors to the maximum practicable extent. Commit the offeror in writing to specific steps that, if taken, would represent a good faith effort. Do not negotiate a goal upwards if it is apparent that a higher goal will significantly increase the Government's cost or seriously impede the attainment of acquisition objectives.

[2] FAC 97-05.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part B: Evaluating Subcontracting Plans

Tasks	Related Standards
5. Advise the contractor if any inadequacies in the subcontracting plan. • When awarding through negotiations, negotiate improvements. • When awarding through sealed bidding and the bidder's plan does not cover each of the required elements, advise the bidder of deficiencies and invite it to submit a corrected plan by a specific date.	B5. Accept no changes in the plan that would affect a Best and Final Price or bid price. Advise the offeror of available sources of information on potential small and small disadvantaged business subcontractors, as well as any specific concerns known to be potential subcontractors.
6. Based on the plan as submitted, determine whether the offeror is responsible.	B6. Find the offeror nonresponsible if: • In sealed bidding, the corrected plan is not submitted on time, • The plan is not adequate, or • If the offeror's past record of compliance with subcontracting plans, as a factor in determining responsibility, tips the scales against the offeror.
7. Determine whether to establish a monetary incentive for exceeding subcontracting goals and negotiate the amount of the incentive (expressed as a percentage of the dollars in excess of each goal in the plan, to a maximum of 10%). Regardless of whether you incorporate a subcontracting plan in the contract, you may establish an incentive under FAR 19.1203 to encourage increased subcontracting opportunities for SDB concerns. In that case: • Determine whether to use an award fee or an incentive. • If an incentive, incorporate the clause at 52.219-26. (FAC 97-07)	B7. Establish a monetary incentive under FAR 19.7 when: • Contracting by negotiation, • A subcontracting plan is required, • Subcontracting goals are realistic, • The incentive is necessary to increase subcontracting opportunities, • The incentive is commensurate with efficient and economical contract performance, and • The monetary amount is commensurate with additional investments (i.e., monies that the firm would not otherwise have spent for this purpose) necessary to expand the contractor's supplier base of small, HUBZone small, small/ disadvantaged, and women-owned subcontractors.
8. Notify SBA of the award. • Send a copy of the award document to the Assistant Regional Administrator for Procurement Assistance in the SBA region where the contract will be performed. • Forward a copy of the plan and any associated approvals to the Assistant Regional Administrator for Procurement Assistance in the SBA region where the contractor's headquarters is located, if any company-wide plans were received from offerors of commercial products. • Forward a copy of the subcontracting plan to the assigned SBA resident procurement center representative.	

Note—To monitor and enforce compliance with the subcontracting plan, see Unit 57, Part C.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part C: Make-Or-Buy Programs

Tasks	Related Standards
1. Determine whether or not to require the submission of a make or buy program.	C1. Require a make or buy program in all negotiated acquisitions whose estimated value is $5 million or more, except when the proposed contract is— • For research or development and—if prototypes or hardware are involved—no significant follow-on production under the same contract is anticipated; • Exempt from the requirement for certified cost or pricing data (per Unit 38); or • Only for non-complex work. For cost-based negotiated acquisitions under $5 million, only consider a separate "make-or-buy" submission per FAR 15.704 if the work would entail a high stakes "make-or-buy" decision by the contractor. Otherwise, review the contractor's "make or buy" assumptions as part of the cost analysis (per Unit 40).
2. Incorporate a provision in the RFP requiring submission of a make-or-buy program.	C2. Only require information on major items or tasks per FAR 15.704. Also provide notice: • That the program and required supporting information must accompany the offer. • Of factors to be used in evaluating the proposed program (e.g., capability, capacity, utilization of small, HUBZone small, small/ disadvantaged, and women-owned businesses, delivery or performance schedules, control of technical and schedule interfaces, proprietary processes, technical superiority or exclusiveness, and technical risks involved). • Of the specific data that must be part of the submission. Examples: - Major items and tasks that are "must make" and why. - Major items and tasks that are "must buy" and why. - Major items and tasks that the firm "can either make or buy" and the firm's preference for each such item or task. - For each "make" item or task, the name and location of the proposed plant or division. - For each "buy" item or task, the identity of proposed subcontractors, if known, and their location and size status.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part C: Make-Or-Buy Programs

Tasks	Related Standards
3. Prepare prenegotiation positions on the proposed make or buy program as part of the cost analysis (Unit 40) and as part of the analysis of the proposed subcontracting plan (if any).	C3. Give primary consideration to the effect of the proposed make-or-buy program on price, quality, delivery, and performance, including technical or financial risk involved. Also consider: • The contractor's justification for performing the work in a way that differs significantly from its normal operations. • Whether the contractor's recommended program requires Government investment in new or other facilities (an additional cost not reflected in the contract price). • The impact of the contractor's projected plant work loading on indirect costs. • The potential for greater utilization of small business, HUBZone, or small disadvantaged business concerns. • The contractor's make-or-buy history for that item or task. • The scope of proposed subcontracts, including the type and level of technical effort involved. • Other factors such as future requirements, engineering, tooling, starting load costs, market conditions, technical superiority, and the availability of personnel and materials.
4. Negotiate an agreement on the make-or-buy program.	C4. Unless the contractor can demonstrate that "buying" would result in a higher total cost to the Government, do not agree to proposed "make items" which are: • Not regularly manufactured or provided by the contractor and are available—quality, quantity, delivery, and other essential factors considered—from another firm, or • Available—quality, quantity, delivery, and other essential factors considered—from another firm at lower prices.

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part C: Make-Or-Buy Programs

Tasks	Related Standards
5. Determine whether to incorporate an agreement on a make or buy program in the contract.	C5. Incorporate the agreement in contracts for major systems or their subsystems or components, regardless of contract type. Also incorporate the agreement in cost-reimbursement contracts when technical or cost risks justify Government review and approval of changes or additions to the make-or-buy program. If the make or buy program is incorporated, add the clause (if not already in the RFP) at 52.215-21, "Changes or Additions to Make-or-Buy Program."

UNIT 49 SUBCONTRACTING REQUIREMENTS

Part C: Make-Or-Buy Programs

Tasks	Related Standards

UNIT 57 SUBCONTRACTING REQUIREMENTS

February 1999

Duty	1. Monitor contractor compliance with subcontracting requirements. 2. Where necessary, invoke applicable remedies.
Conditions	Given a contract with the clauses at FAR 52.219-9 and 219-10 and information on subcontract placement.
Overall Standard(s)	Correctly determine compliance with subcontracting goals, plans, and requirements. When available, calculate and assess liquidated damages if the contractor has not made a good faith effort to comply with the subcontracting requirements. Correctly calculate the amount of the incentive payment under FAR 52.219-10 if the contractor has exceeded its goals by its own efforts.

UNIT 57 SUBCONTRACTING REQUIREMENTS

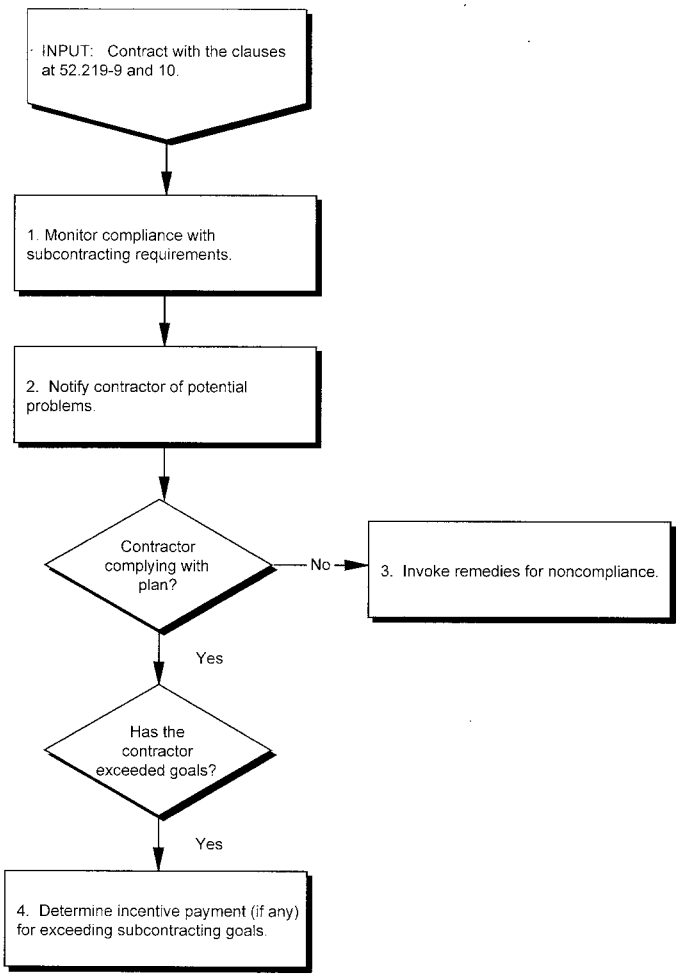
Policies

FAR	*Agency Suppl.*	*Subject*
19.705-6		Post-award responsibilities of the contracting officer for subcontracting plans.
19.705-7		Liquidated damages for violations of subcontracting plans.
19.706		Responsibilities of the cognizant ACO.
19.707(a)(4)		SBA's role
52.219-9		Small business and small disadvantaged business subcontracting plans.
52.219-10		Incentive Subcontracting Program
52.219-12		Special 8(a) Subcontract Conditions
52.219-16		Limitations in Subcontracting
52.219-16		Liquidated Damages - Subcontracting Program
52.219-25		Small Disadvantaged Business Participation Program — Disadvantaged Status and Reporting
52.219-26		Small Disadvantaged Business Participation Program — Incentive Subcontracting

Other KSA's

Other Policies and References (Annotate As Necessary):

SUBCONTRACTING REQUIREMENTS



UNIT 57 SUBCONTRACTING REQUIREMENTS

Tasks	Related Standards
1. Monitor compliance with subcontracting requirements. • Obtain quarterly reports (SF 295) under the plan. • Determine whether the contractor has attained the goals. • If the contractor has not attained the goals, obtain any facts necessary to apply the criteria at 19.705-7 in determining whether the contractor made a good faith effort to comply with the subcontracting plan.	1. Correctly identify applicable subcontracting requirements. Accurately identify any related breach of contract, such as failure to meeting subcontracting goals. In the event of failure, correctly identify and apply the criteria at 19.705-7.
2. Notify the contractor of potential problems (if any) in complying with subcontracting requirements.	2. Where possible, informally resolve the problem. When available as a remedy, provide written notice of intent to invoke liquidated damages because of "failure to make a good faith effort to comply with the subcontracting plan" — specifying the failure. Provide the contractor with a grace period of at least 15 working days to respond. Review the contractor's response and, if requested by the contractor, discuss the response.[1]
3. Invoke remedies for noncompliance with subcontracting requirements. • Withholding of consent to subcontracts (per Unit 56). • Liquidated damages. • Other	3. When available as a remedy, invoke liquidated damages only if the contractor cannot affirm a good faith effort to comply with the subcontracting requirements. Set the amount of liquidated damages as equal to the actual dollar amount by which the contractor failed to achieve each subcontract goal (or, in the case of a commercial plan, equal to that portion of the pro rata share of the dollar amount of subcontracting attributable to Government contracts by which the contractor failed to achieve each goal). [2]
4. Determine the incentive payment for exceeding subcontracting goals.	C4. If the clause at FAR 52.219-10 or 52.219-26[3] applies, correctly verify: • The extent (if any) to which the goals have been exceeded, • That the contractor exceeded the goals due to its own efforts, and • The amount of the incentive payment.

[1] FAC 97-05.
[2] FAC 97-05.
[3] FAC 97-07.

Ms. KELLY. Mr. Lieberman, on page 1 and 2 of your testimony, you cite a number of striking difficult balances, but you fail to include the balance between efficient procurement of goods and services and achievement of small and women-owned business goals and I wonder why that is. I do not see that in your testimony.

Mr. LIEBERMAN. A pure oversight. I plead guilty. I was not trying to give a comprehensive list, and there are probably a couple of other challenges I left out also, frankly.

Ms. KELLY. Can you respond? Again, Mr. Chairman, I would beg your indulgence, and perhaps we could ask you to respond to that question in writing or back to the committee so we can get some response for that. It would give you a chance to amplify your statement.

Mr. HORN. Will you file a letter with the committee on the question Ms. Kelly is raising right now and we will put it at this point in the record, without objection.

Mr. LIEBERMAN. I would be happy to.

[The information referred to follows:]

We fully agree that the Department faces a difficult challenge in striving to reduce the cost of procured goods and services, while also complying with the range of socio-economic restrictions, requirements and goals that are set forth in various laws and regulations. It would certainly be appropriate for the challenge of achieving a balance between efficient procurement and achievement of goals related to small business, especially small and disadvantaged business, to be reflected in a comprehensive list of acquisition management issues. The introductory discussion of management challenges in our written testimony was merely intended to provide examples of broad challenges, so that the ensuing detailed discussion of three areas covered by recent audits would be kept in context, avoiding any impression that those audit results address all acquisition issues or necessarily the most difficult of those issues.

Ms. KELLY. Again, I would like to go to Mr. Lieberman. In your testimony on page 8, you talk about the contracting services there and your statement reads, "The largest subcategory of contracts or services was for professional, administrative, and management support services," and you give a value of $10.3 billion. Do you have any information on what percentage of those contracts belong to women, minority-owned businesses, or disadvantaged businesses?

Mr. LIEBERMAN. I do not have that information with me. I would be happy to try to provide it for the record.

Mr. HORN. Without objection, we will reserve the spot in the record at this point.

Ms. KELLY. Thank you very much.

[The information referred to follows:]

Page 48, Line 1005

(The information follows.)

SMALL BUSINESS PARTICIPATION IN DOD CONTRACTS IN FY 1999

All Contracts	Value (Billion)	Percent
Small Business	$ 21.8	17.4
Large Business	103.2	82.6
DoD Total	$125.0	100
Contracts Only For Services		
Small Business	$12.4	23.8
Large Business	39.6	76.2
DoD Total	$52.0	100
Contracts for Professional, Administrative and Management Support Services		
Small and Disadvantaged Business	$ 0.4	4
Section 8(a) Business	0.6	6
Women-Owned Business	0.2	2
All Other Small Business	1.4	13
Subtotal Small Business	$ 2.6	25
Large Business	7.7	75
DoD Total	$10.3	100

In addition to providing this information, we note that the Women's Business Centers Sustainability Act of 1999, Public law 106-165, requires the General Accounting Office to provide a report to the Congress on Federal contracting involving women-owned small businesses for fiscal years 1997, 1998 and 1999. The General Accounting Office has initiated the DoD portion of its review, which will address trends in contracting with women-owned businesses and any barriers created by laws, regulations and procurement practices.

Ms. KELLY. Then continuing on, Mr. Soloway, in the 12 pages of your written statement concerning the modifications to the Defense Department's procurement processes, there is not one word about small businesses. Are you aware that Congress enacted laws with respect to the utilization of small businesses? What is the Department of Defense reform going to do about the utilization of small business prime contractors?

Mr. SOLOWAY. Congresswoman, I will plead guilty, as Mr. Lieberman did, to simply an oversight on that point. This is an area in which we expend a great deal of energy and effort to ensure that we not only meet the goals that have been set forth, which we did last year in most categories, although as you noted, in women-owned small businesses, we did not meet our goal.

But not only do we seek to meet the goals, but we make it very clear and try to communicate regularly with our work force about the innovations in both technology and business process that take place in small, disadvantaged, and women-owned businesses that need to be accessed, and I believe that one of the things that is going to enable us to expand our access to those businesses is much greater sense of market research, much greater understanding of the commercial marketplace. There are, of course, very few small businesses of that kind, women-owned and so forth, that are defense-unique, if you will, which is the marketplace we are used to dealing in. But the more we expand our market, the more able to access to commercial companies, the more able to utilize electronic means of doing business and so forth that is going to expand our cognizance of available quality services that are in the marketplace, and I believe that is going to help us a great deal.

In response to the second part of your question, I do not believe that acquisition reform in any way should or has ever been designed to negatively impact our use of either small, small disadvantaged, women-owned businesses, or other kinds of veterans' preference or what have you. Nothing in the legislation or in what we are trying to do in any way diminishes our commitment to doing that, and we certainly have made that clear to our work force. As Ms. Lee said, in the training that they get, it is very clear what the expectations are and the benefits that can be gained from an aggressive effort in that area.

Ms. KELLY. My point here, Mr. Soloway, today is really to try to impress upon all of you that in the general scheme of acquisition reform, small business, women-owned, and minority and disadvantaged businesses cannot be an oversight. They have to be included because that is what Congress' intent has been in all of our reform efforts.

On your testimony, I think it is on page 10, you talk about the reengineering of formal training. You were just discussing that. I am wondering, again, when you talk about online and so on, there are women who are accredited contracting—they are out there. In those online capabilities, in that education effort that you are making, are you going to do some outreach in that?

Mr. SOLOWAY. The training that I referenced is, I believe, going to lead to the outcome that you are talking about because what we are trying to impress upon our work force and provide to our work force are many greater tools and a greater understanding of how

to do the kind of market research that opens one's eyes to all available solutions and providers, particularly and certainly including small businesses, small disadvantaged businesses, women-owned businesses, and so forth, and I believe that our ability, with the authorities that we have been given by the Congress and the way we have been implementing them to rely more increasingly on the commercial marketplace, does lead you to those types of solutions.

We do already impress upon our work force their responsibilities under the law for good business reasons to access and utilize small businesses of all kinds. So I do not believe that is the issue. I think the issue really for us becomes one of market research, expanding our marketplace and so on, and that is, I think, going to result in the outcome that you are talking about and that is really where the rubber meets the road, is how well our work force is prepared to examine the options that are available to meet any given requirement.

Ms. KELLY. I thank you very much. Mr. Chairman, I obviously would like very much to have some more time. I realize that my time is up. I hope that perhaps I could submit some questions to your panel and we could get the responses in writing. I will try to stay as long as I can, but I thank you very much.

Mr. HORN. Well, we thank you because we do regard that as a very serious matter and I was delighted when you volunteered to lead the charge. I must say, I am a little shocked that the administration has not done more in this area and I would like to know what the difference has been between now and 5 years ago. I sort of have a feeling there were more women getting contracts 5, 10 years ago than maybe today. I think maybe they have used our liberalization to just sort of say, oh, we can do what we want now. We do not have to worry about these different groups, and I think we ought to worry about them.

Ms. KELLY. Mr. Chairman.

Mr. HORN. Yes?

Ms. KELLY. I actually do have those figures, and I can tell you that in the last 2 years, according to the General Services Administration figures, the Department of Defense has increased their women and minority and disabled businesses by only 0.1 percent in 2 years. It has only been up by 0.1 percent.

Mr. HORN. Even though we have given them a lot of flexibility.

Ms. KELLY. Even though we have given more flexibility and even though we have repeatedly emphasized the need.

Mr. HORN. They seem to have forgotten that Rosie the Riveter made Second World War acquisition very possible.

Ms. KELLY. Exactly, and I am here fighting for Rosie.

Mr. HORN. Good. We have got a great oral history at the university I was president of, if you ever want to get the pictures and bring them in here.

We thank you for coming. We will take those questions and we will followup on them.

I now yield to the gentleman from Virginia for 5 minutes. I know you have another aspect of this procurement situation.

Mr. DAVIS. Well, I do. I have got a couple, actually. Let me just start, you talked about needing a talented and prepared work force. One of my concerns in this whole procurement cycle is the Federal

Government's ability to attract, train procurement officers because they can walk across the street and sometimes double or triple their income, and to keep them motivated, to keep them trained is a huge problem. In my judgment, I think we are going to need to rewrite some rules to allow us to do that. Otherwise, you end up even having to outsource the procurement process because this stuff gets so complex and it changes so quickly. Any thoughts on that? I will start with you, Ms. Lee.

Ms. LEE. We have looked at that and some of the things are very simple, like recruiting you can pick up the Sunday paper and you see kind of a flashy ad that crisply describes what work is there; and you come in to look at a government ad and you may have to fill out pages of paperwork. So we are trying to figure out, how do we recruit? How do we interest the young people into coming into the field? How can we be more crisp and succinct and tell them how interesting and how important this field is? We have got to do everything from recruiting and training to retention.

Mr. DAVIS. Let me ask you, what are we doing on Internet recruiting? A lot of companies out in my district are recruiting through the Internet. That is the way a lot of it is done. Northern Virginia is paying bonuses for good people, but the Internet is a good way. I mean, just my gut is that the government is not ahead on that curve, either.

Ms. LEE. I do not think we are ahead. We have very limited authority to pay a hiring bonus, and to date, I think it has been used mostly in the IT arena.

Mr. HORN. But as I understand the gentleman's question, It is not a matter of paying the bonus. It is a matter of communication and use the Internet to presumably get these individuals.

Mr. DAVIS. I think, ultimately, the question is going to involve pay and benefits, because that is what you are competing with. Even if you get somebody good in, to keep them more than 3 or 4 years, you have got to pay them or motivate them, something close to what they are getting in the private sector, and we are, in my judgment, way short of that and that entails a whole other issue that maybe we ought to be talking about with our Civil Service Subcommittee. But that is one problem.

Ms. LEE. We have not done much hiring, so we recognize it is ahead of us.

Mr. DAVIS. But we can do more on the Internet and make it easier and stuff at least to get people in, and then we can figure out the other. Are there any other comments?

Mr. SOLOWAY. Mr. Davis, I think you have hit on not only the most critical challenge we face but begun to touch on a much broader issue. The way we look at it at the Department is it is not just a matter of our contracting officers. This affects the entire acquisition work force as you begin to look at a different way of doing business. If you begin to look at the revolution in industry not just in cutting-edge technologies but the way technology is driving business processes, from enterprise resource planning and all of these other processes that are now coming into play and how we are going to compete for that skilled work force when, in your district, if you go out, and as I know you do all the time, and talk to your constituents and they complain day in and day out in the private

sector about the lack of skills that are available and the kinds of benefits that are available to those who have those critical skills are enormous and it is a tremendous challenge for the government across the board, not just in IT but also just business process and being able to optimize your business processes.

The comment Mr. Lieberman made earlier about having to do so much more and are we cutting the work force, getting the cart before the horse, what is happening in the private sector is that technology has made so many more things possible and increase efficiencies that we have not adequately graphed yet. This is really the fundamental reason that we have created this task force that I mentioned in my testimony, to look at this future work force and really focus in on the very kinds of questions you are asking. What are the skill sets that we need? How are we going to recruit and retain people? What kinds of people can we reasonably expect to go out and fight for, or what areas are we simply not going to be able to maintain that internal competency that we may have had in the past because of the competition?

This issue also affects the military, as you well know. They are having tremendous retention problems, particularly with technology skills. So I think this is an enormous challenge for us.

Mr. DAVIS. And we could have a hearing just on that and go through. I have one other question I need to hit. I will just, Ms. Lee, go from your testimony. On page 3, you talk about you are seeking to ensure agencies make past performance a substantial factor when evaluating contractors for award, and you talk about the strategy and I understand all that and, I think, basically agree with it.

But here is one of the problems. When small businesses outgrow their relevant size standard and they move into the mid-size category, they are cut loose and there is nothing gradual about it, and we have a lot of companies that flounder after graduating from 8(a) or small business that cannot move up. A lot of the mid-sized companies are cut out of some of these large procurements because you are looking about what they have done before and they have not done something of a relevant size. This has always been a problem where you have the two ends of it. The large businesses and the small businesses have something to take care of them and the mid-size businesses are hurting. But we are seeing more consolidations as a result of medium-sized businesses just not being able to cut it.

My observation has been a lot of the best innovation is coming because of the competition that some of these small and mid-sized businesses are bringing to the fore. Now, is there any way we could tilt the scales back a little bit and give them a little bit—and that is kind of my open-ended, last question before my time runs out.

Ms. LEE. Well, we focused on past performance, and I like to say current and past performance. How are you doing on the contracts you have today as well as what is your past record. So you do not want to focus on just the past, but as well as the current. But what we are trying to do is remind people that you do not have to have performed this size, this exact work before. What is your record of performance and what is your proposal to perform this activity? I am concerned where we say you have to have had $350 million

worth of work in order to qualify. We do not want those kind of disqualifiers, but we look at what is the history and what is their proposal to do this work right now and what is their capability.

Mr. SOLOWAY. May I comment, also, Mr. Davis? As you know, I came out of the private sector before coming to the Department and many of the companies I worked with were small and middle-sized and they were under tremendous pressures in the marketplace because of the way in which the market was going.

But I would like to make a comment to suggest that the advent of past performance, and indeed the whole concept of best value contracting, in my view, is a benefit to those companies as opposed to a hindrance, because what I saw when I was in the private sector years ago was a tendency to do what we call buying into contracts, where large companies could afford to bid extremely low and then worry about the actual costs as we went on. The more we focus on past performance and best overall value, what you have in fact seen is a diminishing amount of that kind of activity because of the pressures of best value. What have you done before? What was your bid before, and did you actually perform to what you bid and so forth.

I have had a number of companies I worked with in the private sector, one of which testified to this before the Senate a couple of years ago, that said if it was not for best value and past performance, they would never have succeeded in making the transition from a small business into the open marketplace. So I think that, in many ways, it is actually the start of getting at the problem and a benefit to smaller businesses.

At the same time, there have been, as Deidre indicated, some application in the field of what we call relevancy factors and so forth that sometimes have disadvantaged individual companies, and I have cases of companies coming to me relatively frequently where it has been a misapplication of this concept. As Deidre said, what is relevancy and how do you define it? If the company itself has not done the precise kind of work we specifically put into the guidance, the fact that key executives in the company and their performance in other entities can be included and should be looked at so that you do not disadvantage those who have not yet had the opportunity to perform on increasingly larger and more complex requirements.

We have recently put together a guide that has gone out to the field just in the last 6 months. It has gone across the entire Department of Defense on past performance and does address a number of these issues to try to ensure that we do not have the reverse impact of what we want, which is getting the top performance we can and giving opportunities to those companies that perform, be they small, medium, or large, to grow and prosper.

Mr. DAVIS. Thank you. My time is up. Mr. Chairman, I just ask unanimous consent my statement for the record be submitted. I appreciate it and wish we had more time.

Mr. HORN. It will be put in the beginning of the hearing after Mr. Turner and as if read.

The gentleman from California, Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Mr. Lieberman, I would like to ask you a couple of questions. I note on page 18 of your written testimony a rather unequivocal statement which I found somewhat surprising. It says, virtually all of the pricing problems identified by our audits arose on sole source contracts. The question I have is that on page 20 of your testimony, you note the 14.8 million transactions that DOD had engaged in. Of those 14.8 million, how many, roughly, were sole source transactions? Do you have any feel on that?

Mr. LIEBERMAN. I would have to try to get that number for you for the record, because the 14.8 million includes about 9 million of credit card transactions.

Mr. OSE. 9 million transactions or $9 million?

Mr. LIEBERMAN. 9 million transactions.

Mr. OSE. OK.

Mr. LIEBERMAN. I do not know what the competitive/sole source split is for those. For major contracts for supplies and equipment slightly above 50 percent are competitive.

Mr. OSE. I did a little thumbnail analysis here and it appears in your testimony there are about 125,000 transactions that were larger than $100,000. That is in your testimony. If you work back from the $14.8 million, that means you have got about 14,675 million transactions under $100,000, which would mean that they average about $1,000.

The question I have, from your experience, in contracts averaging $1,000, are those contracts doing procurement of unique things or are we buying plastic cups and paper and chairs?

Mr. LIEBERMAN. Defense buys an enormous variety of items and I think the answer is both. There is a mix of military-unique items, items that are still called out in terms of military specifications and unique military standards, and a lot of commercial products. So it is some of both.

Mr. SOLOWAY. May I add a context on that, sir? Under the credit card, the micro-purchase authority, purchases under $2,500 for which there is no existing underlying contract, there is no requirement to go through the normal competitive processes and so on. That is the whole point of the credit card, and I think that that has been a success that we have all signed up to and said, this has really been a great innovation for our work force. We have saved somewhere in the neighborhood of $200 million in the Department of Defense alone through use of the credit card because of the simplified process it can go through and so on.

Now, there are in addition to that a number of small transactions that are made as task orders and so forth on contracts that already exist that could be $1,000, $1,200, $1,500 for a part for a plane or whatever it might be, and we could probably break all that down. That data does exist. But we need to look at it in different categories.

When Mr. Lieberman talked about the credit card or the $2,500, that is where there is no underlying contract typically. That is you go down to the local store and buy office supplies or what have you.

Mr. OSE. Does that fall in the sole source characterization that you have applied on page 18, Mr. Lieberman?

Mr. LIEBERMAN. No, sir. I was really not considering what we call the micro-purchases, the small purchases, at all.

Mr. OSE. It is separate? All right.

The second question, Mr. Chairman, if I may, on page 19, Mr. Lieberman, of your testimony, you highlight the fact that the acquisition work force at DOD has been basically halved in 8 years. It has gone from about 460,000 to 230,000. Was that a reduction that followed a directive from Congress or was that a management decision? What drove that decision?

Mr. LIEBERMAN. Congress has passed legislation mandating specific acquisition work force reductions in the Department. However, those reductions are also supported by the administration in the overall context of government downsizing. There is a dialog every year back and forth, both on what the definition of the acquisition work force is and what the reduction target should be, but both the administration and the Congress have agreed over the past decade that the general trend should be downward.

Mr. OSE. How many of the remaining 230,000-odd members of the acquisition work force are actually contracting officers with authority to award contracts?

Mr. SOLOWAY. It is 19,000.

Mr. LIEBERMAN. Mr. Soloway said it is 19,000. That sounds about right. The number is included in our work force acquisition reduction report.

Mr. OSE. Let me shift if I may, then.

Mr. HORN. If I might interrupt, the gentleman is free to go as long as you would like. I am going to get over to the floor, vote, and come back. So put the committee in recess when you are finished with your questioning and I will try to make sure they do not close it out on you.

Mr. OSE. I will tell you what, Mr. Chairman. I will go ahead and submit my questions in writing because I, too, need to vote.

If there are 19,000 who have current authority to award contracts, how many were able in 1991 to award contracts? Was it 38,000?

Mr. SOLOWAY. I would have to get that specific number for you. As I recall the statistics, and I do not have them with me, in the contracting field, actually, the percentage reduction has been slightly under the 50 percent, I believe, within the Department, and maybe even considerably less than the 50 percent reduction.

Let me just draw a little context to the numbers. When we started down this path, when we talk about the 400,000-plus people in the acquisition work force and then have come down to the 235,000, give or take, that we have today, the initial definitions of that work force really were based on the total employment of organizations within DOD that have an acquisition mission. In the discussions that Mr. Lieberman referenced with the Congress over the last several years about mandatory reductions, should we or should we not have them and so forth, one of the things that we have tried to do is more accurately and clearly define who is actually in the acquisition business, which is far more than contracting officials, although they play a critical role, and who in that employment base are gate guards, doctors, and so on, other kinds of employees that work in those organizations.

That led us to a new definition of the acquisition work force that we submitted to Congress a couple of years ago, which basically

now defines the core acquisition and technology work force at about 150,000. It is very difficult to relate that to 1981 numbers because the data keeping and the way in which we record these things is not necessarily consistent. But that today is the core acquisition and technology work force, and when we say 19,000 or 20,000 contracting officers, they make up a little bit over 10 percent of that work force.

Mr. LIEBERMAN. Mr. Ose, I have the exact numbers for you if you would like them. They are on page 9 of our report, 2000–88. If I could quote it, from fiscal year 1994 to fiscal year 1999, the total number of DOD contracting officers decreased from 7,465 to 6,505, or 12.9 percent. Now, that is only for that 5-year period. I do not have the numbers for prior to 1994.

Mr. OSE. Let me go on, if I might. One of the things that concerns me greatly, and I need to explore this a little bit as it relates to the 6,505 people who still do procurement that you just highlighted or the 19,000 otherwise—and the others have hinted at it earlier—is the degree to which those people stay in those jobs and accumulate the experience that would allow them to be that much more efficient in future years. It is my impression that at least in some instances, people are moved regularly, and I am inquiring, what is the average tenure, if you will, of a DOD procurement officer?

Mr. SOLOWAY. I do not know if Mr. Lieberman has specific numbers with regard to that question, but I believe the average tenure for someone in that position is 3 years plus, at least, but that is just in a given position. I mean, they are in the field. It is just like in a company, where you gain experience in different parts of the company and get a broader context and so forth. The average age of our acquisition work force, as you know, is mid- to upper–40's. So I think we have actually had relatively good stability of people who are working in the field and gaining the experience they need.

One of our concerns, not just with contracting professionals—and one of the differences I should point out between the 6,000 and the 19,000 is it is not just contracting officers who have the authority to do some of these actions. My 19,000 was based on your question of how many people can actually sign contracts and so forth.

But one of the big concerns we have with this is the exit of the institutional experience and knowledge and the fact that we have not been, as Mr. Hinton pointed out, hiring over the last number of years and therefore do not have that new generation coming in. By the same token, it does give us an opportunity to rethink and readdress the way in which we manage the careers of those people coming into the process to give them the kind of cross-cutting skills, those business management skills, if you will, that we seek because we have traditionally been much more stove-piped in our approach. So it is both a challenge and an opportunity.

But traditionally, we have had relatively, I think, good stability within the work force in terms of getting the years of experience needed to understand the business of defense or the business of treasury or whatever the agency that is being discussed. And, in fact, I think there is great benefit to doing a little bit more of what the military does, which is rotating people around and giving them

a variety of experiences so they gain that much broader context of the overall operation, if you will.

Mr. OSE. We are in recess.

[Recess.]

Mr. HORN. The recess is over and we will proceed with the questioning of panel one.

Let us talk a little bit about service contracting. As I understand it, on March 10, 2000, the Defense Inspector General released an audit report on the use of service contracts by the Department of Defense. The Inspector General reviewed 105 service contract actions valued at close to $7 billion. Mr. Lieberman, you testified that you were startled by the audit results. You found problems with all 105 contracting actions that you studied. You identified poor cost estimates in 81 actions, incomplete price negotiation memorandums in 71 cases, and 63 actions in which there had been inadequate competition. Could you provide us with some examples in some of these problems? I saw up on projection the cargo trailer for the Army and I guess I would throw this in. Was that off the shelf, and if it was off the shelf, which army was it from?

Mr. LIEBERMAN. Mr. Hinton is the expert on the trailers. I know nothing about trailers.

Mr. HORN. Do not worry. I am going right down the line with all of you.

Mr. LIEBERMAN. We were, indeed, startled by this finding, and in my written testimony, I did not mean to be glib, but I mentioned that I do not ever remember a case where we had 100 percent hit rate on any audit sample that we have done since I have been running the IG audit organization and I have probably signed close to 2,000 audit reports in my career.

To provide examples of the types of failures that we saw, let me talk about the inability to transition to fixed-price contracts. Even when DOD had the same contractor coming back to do essentially the same thing year after year, expedient cost-plus contracts were used. A fixed-price contract entails a whole lot less risk to the government. Obviously, you cannot enter into such an arrangement unless you have a pretty good idea of what the services are that you are buying. We found cases, however, where even though the work was very similar from year to year, there was really no attempt made to reconsider getting out of a cost-plus contractual arrangement. We found cases in both the Army and Navy where this went on for decades.

As I mentioned in the statement we found one in the Army where for 39 years the same contractor had provided, in this case, engineering support services to the Hawk Missile Program. The Hawk Missile was introduced in 1958 and, of course, it has had a few different generations fielded since then. But basically, you have had the same contractor providing the same kinds of services, for 39 years as of 1997.

A Navy example: for 35 years, a contractor providing the same kind of program management support to a submarine weapons systems program office. This was everything from evaluating the work of other contractors to helping the program office prepare procurement plans and other kinds of mundane tasks like that. Again, there is really no excuse after a certain period of time for not ag-

gressively pushing toward fixed pricing for at least some of the tasks.

But the easy thing to do is just renew the contract, and to make a long story short, we found a definite tendency just to accede to the program office's wishes to rapidly get the preferred contractor under contract again. There was insufficient consideration of the contract type, the statement of work, and what the proper cost should be.

Mr. HORN. Let me have Mr. Soloway's views on this. How do you respond to those audit results and how does the Department of Defense recommend addressing the deficiencies?

Mr. SOLOWAY. On balance, I do not think we take issue at all with the concerns that have been raised by the Inspector General, but what I would like to do is again try to put this in a slightly different context.

First of all, I agree that in an environment where we are using services for extensive amounts of support, we have to continually be evaluating performance, other options, injecting more competition, and so forth. So the point that Mr. Lieberman just made I think is very valid.

I think there are a couple of things here also that we need to consider. First of all, when we make an assumption that we have had a contractor in place for 30 or 35 years and there is no performance surveillance, I think the actual work they are doing probably becomes a performance surveillance unto itself, perhaps not as formally or in-depth as we all think it should be, but clearly, the office that has been retaining that contractor was not unhappy with the quality of work that they were getting. So I am not sure it is a performance issue.

Second, when we talk about it, as the audit did, the issue of how many cases where there could have been lower-price bidders and so forth, clearly, price is always a factor in these matters, but best-value contracting specifically says to us, do not assume the low cost is always the best value. So I do not think that in and of itself tells us a lot.

But the point that Mr. Lieberman made, in terms of really defining the outcomes and defining the performance that we want and ensuring we are getting them is critical, and I think that as we do that more—as I mentioned in my statement, we have made an unprecedented commitment to moving into a performance-based services environment which really drives you into defining the outcomes that you need and are seeking, which is the link that takes you from a cost-plus environment in most cases to that fixed price environment that he is talking about.

What we have had trouble over time doing, and I saw it when I was in the private sector and certainly see it today, is defining what the performance outcomes are going to be and writing performance-based statements of work that both sides can really sign up to in a fixed-price environment. That is actually not as simple as it sounds, particularly as you get into complex services. That is really what our training is geared to enhance our ability to do, because ultimately that becomes the linchpin to being able to move into a very different way of dealing with these services.

Mr. HORN. On this point that you are stressing, as I look at the figures here, and this might be the one you are referring to, in one instance the Army had been using a cost-type contract for support services related to the Hawk Missile system for 39 years. I do not know how many of those you have. I do not know if they have done a fine job or not. I do recall when we got into this Bosnia mess that it was a shock wave in the House of Representatives that there were no cruise missiles on hand. No one had ever told anybody. Maybe they told somebody in the Armed Services Committee, but we kicked them around a little, too, for not informing the other Members.

How do you deal with those things in terms of the inventory that you keep going to wage something, presumably in the interest of the United States?

Mr. SOLOWAY. I am not sure that there is a connection between the Army contract and the Hawk missile office for contractor support services and the availability of inventory in wartime. I do not know what specific responsibilities in that case the contractor had. My guess is that we are really talking about professional and administrative services and not program management and inventory and so forth, but I will certainly look into that because I am not sure if there is, in fact, a link there, although I do understand the concern that arose during Kosovo.

Mr. HORN. Well, would you say that service contracts are much more difficult than the traditional purchase contract for not services but for a product or something?

Mr. SOLOWAY. Well, if you are looking at a readiness type of issue, is I think what you are thinking to, I think smart service contracts, actually, we are using them because we think they are going to get us increased readiness. I mean, the kinds of contracts that we are putting in place for flexible sustainment, is one term, power by the hour, what have you, really says to the contractor, here is the outcome we need in this specific case. We need to have our planes flying *X* number of hours a month, and it is your responsibility if you have that particular contract to ensure the availability of that asset to be able to use it.

That is a performance-based service contract, as opposed to saying to a contractor, we will order parts as we need to maintain iron mountains of material in warehouses, material that becomes obsolete because technology moves forward and so forth. In fact, we think moving to much more of a performance-based services environment for equipment maintenance and so forth will benefit readiness, not negatively impact it. But it has to be done right and it has to be in a performance environment.

Mr. LIEBERMAN. Mr. Chairman, could I just add two quick points of clarification?

Mr. HORN. Yes.

Mr. LIEBERMAN. In our audit, we did not look at the quality of the performance of the contractor, so when I say that it was untoward for the Army to keep the same contractor under contract for 39 years on a cost-plus contract, I am really criticizing the fact nobody else got a chance to compete and it stayed on a cost-plus basis. I am not commenting on the quality of that contractor's work.

Mr. SOLOWAY. And we would agree with that.

Mr. LIEBERMAN. The second thing is, we are also not saying you always take the lowest bidder, God forbid.

Mr. HORN. Well, I completely agree with that. I was stunned for many years by State of California low bids.

Mr. LIEBERMAN. Indeed.

Mr. HORN. You just had to get rid of the people and start all over or you were in lawsuits and all the rest of it.

Mr. LIEBERMAN. Right. However, what we are saying is you do have to consider price, and we are finding many instances where price just literally was not a consideration, and that is obviously unacceptable.

Mr. HORN. Is there any authority you need because of the difference between service contracts and product commodity contracts? Is Clinger-Cohen sufficient or is that helpful in that regard?

Mr. SOLOWAY. I think Clinger-Cohen was very helpful in focusing our attention on services, particularly in the IT world. I do not think it is a question for us at this point of needing additional statutory authority, even regulatory authority. What we really have tried to do, as I said, with this new initiative on performance-based services is really jump-start the training that is provided to our work force. If you look at the charts that Mr. Hinton had and we talk about product purchases really in a lot of major weapons systems and so forth, that was where our training went. It was teaching people how to acquire major systems. Now as that shift and that transition has taken place, we have probably been a little slow on the uptake to try to reorient our training to address the new marketplace, but that is, in fact, what this initiative is.

As I think both Mr. Lieberman and Mr. Hinton suggested, this really becomes a training and education issue and it becomes a management issue, really providing the kind of management oversight and discipline to this process to say competition is important. We agree that price is a factor. We also believe that ultimately getting to a true performance environment, as is the rule now in the best of class in the commercial world, is how we are going to get our arms around this problem, and I think that is not really a legal or a statutory issue anymore. It is really a matter of our responsibility to really push forward with the training and education our work force needs.

Mr. HORN. In terms of the so-called service contract, could we also say another word for outsourcing, because we certainly have a lot of government employee unions walking the halls of Congress nervous when any agency thinks about outsourcing. They see loss of membership, loss of dues, et cetera.

So how do we separate out on a service contract bulk, that a lot of that is really outsourcing? And then the question is, to what degree if something does happen on the Army side, let us say, where they have outsourced cafeterias, whatnot on bases, this kind of thing, which beats us all fixing potatoes and all for the chef. But what do you do when the whole system breaks down and where do you find those, and I am sure that is what the armed services do say to the Defense Department.

Mr. SOLOWAY. Certainly, most of the work we outsource is in the services arena. Not all services we contract for, I am not sure you

would define it as outsourcing, but certainly when we talk about competitive sourcing and the initiative at the Department, most of what we are talking about are services. But when you have a situation where a contractor, if the decision is made to go to a contractor in that case for work that was previously performed in-house, you go through a whole competitive process. OMB Circular A–76 is typically the guiding policy.

But if you get to a point in performance where the contractor's performance is horrible and not delivering the service, you can recompete that contract or you can go—you have a whole process for curing deficiencies and giving them an opportunity to fix the mistake, and if they do not, you go back to the competitive market and take it away.

That is the pressure, that continual potential for competition, and I think it goes back to Mr. Lieberman's point, also. That is the pressure that really ultimately drives performance, is the knowledge that there is competition out there, there is innovation out there, and if you do not maintain currency and if you do not perform at a high level, you are going to lose this work, and I think that is really what performance-based services really are about and that is how you would deal with that situation. So it is not a matter of not having the ability in-house necessarily, it is a competitive marketplace that continues to drive that innovation.

Mr. HORN. On that very point, in 1994, when on a bipartisan basis we said, 5 years from now, we want to see a consolidated balance sheet for every major organization in the Federal Government. Now, one of the things we hoped for and we have held hearings on is getting measures of performance, not simply finance as the result, but was the job done well, is it meeting what people thought they were getting, and have you come up with what you would feel comfortable with, some measures to do that on contracts and would that be helpful in your annual budget review as to whether we do this or this, A or B? Have you come up with some measurement quality that is not simply how many dollars are at stake here and so forth?

Mr. SOLOWAY. You have taken me a little bit out of my bailiwick, so I will have to—the whole competitive sourcing initiative and the outsourcing that you discuss really comes out of a different organization within the Department and I can certainly take the question for the record.

I can, however, on a more broad sense, address two points. First of all, we do have a number of goals under the GPRA that we are very committed to meeting and I think most of them—I do not have the full statistics with me—most of them, we have actually done quite well.

Second, in the area of performance, this is something that Secretary Cohen, Deputy Secretary Hamry, and Dr. Gansler, the Under Secretary, have been stressing and pushing across the Department. In fact, on the defense reform initiative, which I also have the pleasure of directing, we now have engaged or entered into performance contracts with each of the defense agencies. You will see, I think, increasingly throughout the entire defense reform initiative and all the elements associated with it, many of which relate to the issues we are talking about here on acquisition and lo-

gistics, long-term tough performance outcome measures publicly available on websites and so forth that we are going to meet and so forth. There have been extensive discussions, as a matter of fact, with the GAO about this whole area because it is something I think they have fairly criticized the Department for over the years, for not having really good performance measures and metrics.

So this is an area of heavy focus, and specifically with regard to outsourcing and competitive sourcing, I can certainly get back to you with the specific measures that are being put in place.

Mr. HORN. We would appreciate that, so without objection, space will be put in this part of the record on some of the measurement standards that the Department of Defense is using to evaluate performance.

Let me go back a minute to what was said in some of your testimony on the spares. That is a very serious thing. I can recall in my district Rockwell International made the Apollo and the space laboratory, the shuttle, so forth, and I think they correctly made the decision, hey, we have got all these warehouses, as you used the word, but in the case of NASA, all these warehouses for spares and we do not really need them right, and if we do down the line, we will just get back to it. There is no question that saved a lot of money for the government. How many situations like that do we have in the Pentagon, that there are warehouses filled with spares and some people do not even know where the warehouses are?

Mr. SOLOWAY. Sir, I would be lying if I told you I had an exact number. So I do not mean to sound glib, but the answer is probably a lot. We have a new strategic vision for logistics and product support that has recently worked its way through the Department which speaks to this issue extensively in trying to mirror the best practices that we have seen in the commercial industries when you look at people like Caterpillar and John Deere and some of the real world-class operations and how they have been able to reduce what I referred to earlier as iron mountains of material, much of which not only gets lost, but it becomes obsolete as technology goes on, and really move to the kind of what we call prime vendor or virtual prime vendor kinds of relationships or total system support, whatever moniker you want to assign to it, in which we try to avoid these massive warehouses and really work toward what our real needs are with constant technology refreshment and supply streams and so forth.

It is also consistent with where the military itself is going. If you look at General Schelke's plan for the new lighter Army, the air expeditionary forces in the Air Force and so on, this whole concept of a lighter footprint and reducing the kind of the permanent warehouse supply mentality and really working toward a supply stream approach is fundamental to what we are trying to get to in the Department.

Mr. HORN. On the issue of acquisition work force, the Inspector General noted that none of the 25 contracting personnel interviewed had received training related to service contracting. Additionally, the Inspector General reviewed course catalogs from both the Defense Systems Management College and the Defense Acquisition University and found no courses related to service contracting. So I guess, Mr. Soloway, I would ask you, does the Department

of Defense currently offer in its acquisition work force training how to negotiate, administer, manage service contracts? If not, when will this training begin and are you making the Department's acquisition executives aware of the problems identified in the audit report?

Mr. SOLOWAY. I think, sir, the answer to that is yes, we are, and yes, we have. There are elements of various courses that do touch on some of these issues, but Mr. Lieberman and the IG is correct in that the fact is that there has been no focused service contracting courses for the reasons I mentioned earlier that the focus of the Department traditionally has been on major systems and product buying and this transition to a service economy is relatively recent, although in hindsight we clearly acknowledge that we were slow to move on it.

As I mentioned in my testimony, we have now launched a web-based training course on performance-based services acquisition that is available to the entire work force. Dr. Gansler, in the policy I mentioned where he is going to direct that 50 percent of all of our service acquisitions be performance-based by 2005, which given the numbers is a very ambitious goal, will also mandate that all members of the work force involved in services acquisitions take this or an equivalent course within the next 12 months. That is an extraordinarily ambitious goal, but, of course, the wonders of the Internet are such that any number of people can take it, and at $100 a head, which is basically the nominal fee associated with it, it really becomes very affordable.

So we have a very aggressive training agenda in mind as we also reengineer the formal training within the schoolhouse, within the Defense Acquisition University and DSMC. We will be increasingly adding modules at various levels of that training, from early on in the process to the more senior courses that focus on services acquisition and more.

Finally, I should also mention that the Defense Logistics Agency is about, as I understand it, about to launch a new training course on commercial negotiation and pricing, particularly in this new services world that they are entering as well as the spare parts product world.

So the attention to education and training in this area is very significant. We acknowledge that this has been a problem in the focus of the Department and we have missed that boat, but I think that we are moving out in the right direction.

Mr. HORN. In Mr. Lieberman's testimony, he noted that overall disconnects between workload forecasts, performance measures, productivity indicators, and plans for work force sizing and training had major disconnects. I guess I would ask you, Mr. Lieberman, I think we can guess at what disconnects are, but give me your definition for it since you wrote the sentence.

Mr. LIEBERMAN. I believe there should be a logical planning progression where you decide first of all what the mission of the organization is, what has to be done to achieve that mission. In terms of the acquisition work force, what is a reasonable forecast of the workload that is going to have to be done by all these different types of players in the acquisition process? There is a lot of focus on the contracting officers themselves, but they are supported by

a whole panoply of other disciplines without whom they cannot get from here to there. So we have to talk about the acquisition work force as a whole.

We have to really analyze what the workload is, is all that workload necessary, are there opportunities through the insertion of technology or changing requirements to cut that workload down, or is it uncontrollable? What is a reasonable expectation for the individual person?

You asked me for some specific examples before and I only gave you a couple of problems. Let me throw out another one. We ran into a technical monitor at a program office who said he was responsible for oversight of 43 contracts worth $621 million, but most of his time was being taken up negotiating 13 new contracts for a couple hundred million dollars. Now, I would say that person is simply stretched too thin and that is lousy staff management by whoever is in the chain. We have an awful lot of that going on.

We have an evolving work force in many ways demographically. The skills mix has to change also. People nowadays have to be much more information technology conversant than I did when I entered the work force.

All of the factors that go with any kind of work force planning have to be laid out there. We have to decide how many people we want and what needs to be done to hire them and retain them. I think, frankly, there has been entirely too much emphasis on just cut the number of bodies, period, and I think our analysis of every other part of the process I just talked about is way behind the eight-ball. The Department is trying to catch up now, but we have very, very limited information. There is a lot of information in this report that we should not have had to wait for 10 years for auditors to go find out. This should have been management information that DOD was looking at all the time.

So we are getting a late start on it, but I do think that we have the Department's attention and we applaud the initiatives they are taking now. I am sorry for the long-winded answer, but——

Mr. HORN. No, it is very helpful. Let me ask you, does the Office of Personnel Management [OPM], have anything to do with implementing Clinger-Cohen? I am going to get to Ms. Lee in a minute in terms of the Office of Management and Budget, but what is OPM doing to be helpful on this?

Mr. LIEBERMAN. I really do not have enough knowledge of what OPM is doing to comment on that, but I think Ms. Lee probably could.

Mr. SOLOWAY. Before Ms. Lee, may I jump in from a DOD perspective on OPM and what we are doing that relates directly to the work force? Congress instructed us a couple of years ago to look at changing the way in which we compensate our work force, to look more at performance and contribution as opposed to time serviced. With congressional authority and mandate and help from OPM, we now have an acquisition work force demonstration project underway where we have some 5,000 to 7,000 members of our work force whose compensation is largely tied to their contribution to the organization, which is a very different way in a civil service environment to approach it. So that is one way in which OPM, I think, was very helpful.

But also to Mr. Lieberman's point about the workload and the sizing and the strategic view, we absolutely agree from a global standpoint that is what our new initiative is really to deal with, but the program offices and the organizations independently have to do this. But we are also looking at new ways of doing business in partnership with the IG, in fact, where we are taking large contracts where somebody may have hundreds and hundreds and hundreds of actions a year, much time spent on individual pricing actions and so forth and trying to create what we have mutually defined as a strategic alliance with companies where you can have formulas and processes that vastly simplify that process, so that if I have a contract with tens of thousands of items covered and there are 5,000 or 6,000 orders against it a year, it might involve hundreds of different contracting people around the country.

We can vastly simplify that, and to make that work in the right way to ensure that we protect the public interest, protect the public trust, and so forth, the Inspector General has been working directly with us to try to put those alliances together with industry, with the agencies, and so forth to try to structure a different business construct. We have one or two of them underway now that we, I think collectively, I think have some tremendous potential to really dramatically reduce workloads in some areas by getting us out of some of this down in the weeds nitpicking every time we have an order and basing it more on a kind of a strategic approach.

Mr. HORN. The Clinger-Cohen Act requires the agencies to establish policies and procedures to manage the acquisition work force effectively. Now, these policies should include education, training, career development, but has the Department of Defense done anything in those areas in particular and are there other gaps here? That is what we are interested in.

Mr. SOLOWAY. Sir, the Department of Defense is covered under something called the Defense Acquisition Workforce Improvement Act [DAWIA], which lays out a whole series of certification requirements for people to handle certain kinds of jobs and move into certain levels.

Mr. HORN. Did that come after Clinger-Cohen?

Mr. SOLOWAY. That preceded Clinger-Cohen.

Mr. HORN. It preceded it? OK.

Mr. SOLOWAY. The DAWIA really set forth kind of a series of standards depending on what you are going to do. What we really have to be doing now and what we are doing is relooking at some of those and how this new work force, what we want out of this new work force and how DAWIA currently fits into that. Much of the training at the school, DAU and DSMC, is geared toward the certification requirements that people have up through the various levels of the department.

Mr. HORN. Do you find that you are losing the very qualified procurement personnel because of inadequacies of one sort or the other in terms of payment, retirement, so forth?

Mr. SOLOWAY. We have some concern that we are, but I will tell you, I think the concern that we are just slowly coming to and one that really, in my dealings with the private sector have suggested to me the private sector is beginning to realize, is the more we become technology smart in our business processes and elsewhere,

the greater challenge it is going to be for us to retain people with those technology skills.

I was down at Federal Express with some people a few months ago talking about enterprise resource planning and IT integration and so forth and here is a world class information technology company for all intents and purposes. All of its senior executives are IT experts. And they told us as they went through this integration process, they lost 20 to 25 percent of their top IT skills because they became so valuable on the marketplace that even FedEx at the rates it pays could not keep them, and I think that is something we need to keep our eye on when Mr. Davis was talking about that changing dynamic of the marketplace, and this is something that is beginning to affect the military as well.

You hear stories of captains not wanting to bring ships into port because their enlisted men who have basic communications training are getting recruited right there on the dockside. If you say to somebody, what are you making today, $22,000, $23,000 a year, you have got a family of four probably living in substandard housing and you are at sea 9 months a year and someone says, I will retrain you for a long-term career, you can stay in a nicer home, you do not have to travel 9 months a year, and oh, by the way, I will triple your salary, it becomes very difficult to retain people.

So I think as we become more technology smart and as we begin to need more technology skills to execute business processes, that challenge is going to become even greater.

Mr. HORN. You put it very well, I think, and there is no question that Mr. Davis' point on the competition in the marketplace, we have to face up to it.

Ms. Lee, when I mentioned education, training, and career development, I noted that you put out a policy letter on September 12, 1997, and you gave the agencies until May 1, 1998, to issue those policies and procedures. Have all of the agencies complied with that request?

Ms. LEE. All of the major agencies, the largest CFO agencies, have submitted plans. We are still working with the agencies on exactly how we want to implement it. It is this concurrency that we are dealing with. We have existing training classes and we could say, you must take these 10 training classes. But as we have identified in here today, we want to make sure that the content is current with the way we are doing business. We do not want to teach the old process-oriented, rules-oriented classes. So what we are trying to do is continue to educate people but make sure that we think about the new environment we want them to integrate into and the skills they are going to need to do that. So we are trying to move them both forward concurrently.

Mr. HORN. Has anybody not submitted a plan?

Ms. LEE. No.

Mr. HORN. It seems to me that is a piece of paper.

Ms. LEE. Perhaps some small agencies. I do not have the exact list, but we tracked basically the major CFO agencies and we have plans in. They are not all perfect.

Mr. HORN. Well, what about some of the smaller agencies, independent agencies?

Ms. LEE. We do have some of those plans in. I can provide for you a list of everybody we have in.

Mr. HORN. Could you just provide for the record who has put them in, where is the status on it, et cetera.

[The information referred to follows:]

Attached is a list of the 21 departments and agencies that submitted career management plans pursuant to OFPP Policy Letter 97-01. Those agencies account for over 92% of the acquisition workforce employed in the GS-1102 (contracting) and GS-1105 (purchasing) series. The Federal Acquisition Institute (FAI) reviewed those plans at the request of OFPP and assembled a suggested template for career management plans, also reflected in the attachment. OFPP is currently drafting a revision to 97-01, and that revision will cause agencies to review their plans and make appropriate changes that will be consistent with the new policies. We are considering incorporating into the new policy letter the template prepared by FAI.

Attachment:
Procurement Development Training Policy (Plan)

Procurement Development Training Policy (Plan)

The following agencies submitted their plans for review:
1. Department of Justice (DOJ)
2. Veteran Affairs (VA)
3. National Aeronautics and Space Administration (NASA)
4. National Gallery of Art
5. Social Security Administration (SSA)
6. U.S Department of Transportation (DOT)
7. Export-Import Bank of the United States
8. U.S. Environmental Protection Agency (EPA)
9. Department of Health and Human Services (DHHS)
10. Railroad Retirement Board (RRB)
11. Office of Personnel Management (OPM)
12. Overseas Private Investment Corporation (OPIC)
13. Department of Energy (DOE)
14. General Services Administration (GSA)
15. Nuclear Regulatory Commission (NRC)
16. U.S. Department of State
17. U.S. Department of Agriculture (USDA)
18. Federal Emergency Management Agency (FEMA)
19. Department of Treasury
20. Department of Commerce (DOC)
21. Department of Interior (DOI)

FAI's has completed their review of all plans submitted per OFPP Letter 97-1. Of the 21 plans reviewed nine plans included many of the items that constitute a good plan. These plans were submitted by 1) NASA, 2) DOT, 3) DHHS, 4) USDA, 5) NRC, 6) DOE, 7) Department of Treasury, 8) DOC, and 9) DOI. Based on FAI's review, below is a list of what a complete plan should contain.

TEMPLATE FOR ACQUISITION CAREER MANAGEMENT PROGRAMS.

1. Table of Contents

2. List of Chapters and Page Numbers

3. Definitions

4. Agency-wide Policies and Procedures
- Overview/Background
- Implementation of the New Standards
- Purpose/ Objective of the Program
- Roles and Responsibilities
- Eligibility

5. Workforce Coverage

- All positions in the General Schedule (GS-1102) Contracting Series and non-DOD uniformed personnel in comparable positions.
- All Contracting Officers regardless of General Schedule series with authority to obligate funds above the micro-purchase threshold.
- All positions in GS-1105 Purchasing Series, All Contracting Officer Representatives/Contracting Officer Technical Representatives, or equivalent positions.
- The Administrator of OFPP will consult with the agencies in the identification of other acquisition related positions.

6. Career Development -***Note**: Department of Treasury and DOI included some good information about their Intern Program and their Procurement Student Career Experience Program.

a) Career Paths – three proficiency levels (1102 and 1105) – I, II, III
b) Critical Skills - experience, education, training (attachment)
c) Mandatory Education and desired/elective courses with descriptions of each course (attachment)
d) Mandatory Training and Experience –
   - training matrix (1102, 1105 and COR/COTR)
   - training courses for 1102, 1105, and COR/COTRs
   - training courses for other acquisition related occupations
   - Other Skills – Creative Problem Solving, Conflict Management, Stress Management, or other work related courses

e) Program Certification Requirements
   - Competency Assessment
   - Certification/Review Boards
   - Decertification – procedures to follow when individuals fail to meet new requirements.

f) Waiver Authority for GS 1102 Education Requirements
   - sample waiver forms
   - equivalency courses
   - grandfathering options

g) Skills Currency
(Requirement of 40 hours of continuing education or training requirements every two years for contract specialist (GS-1102 series) and Contracting Officers; every 1 – 3 years (depending on the agency) for individuals with COR/COTR responsibilities.

Strategic Skills assessment

h) Individual Development Plan
   Short Term Goals
   List course(s) completion dates
   Courses scheduled
   Rotational, on the job training, mentoring assignment
   Other professional developments

"Refresher" training

i) Procedures for Requesting, Approving and Recording Mandatory Training Completion Fulfillment

j) Documenting Course Completion

k) Promotions and Contracting Officer Warrants

- Essential Skills of a Contracting Officer

l) Additional Development Activities

  - Rotational Assignments, Mentoring, Professional Association Involvement

4. Location of Training
   - Training Sources
   - Training Methodology

5. Funding Levels
   - Tuition Assistance

6. System of incentives for rewarding performance of employees that contribute to the agency's performance goals.

7. Management Information System

- Training Database and tracking system

8. Attachments (Optional)
   1. OFPP Policy Letter 97-01, Qualification Standards
   2. Qual. Standard (1102, 1105, CO and CORs/COTR)
   3. Description of courses for 1102, 1105, CO, COR/COTRs, Project Managers)
   4. Career Level Certification Standards (Career Paths and Critical Skills)
   5. Waiver Forms
   6. Sample IDP Form

Mr. HORN. According to your testimony, you plan to issue a revision to your guidance of May 1, 1998, or September 12, 1997, getting them to get it in by May 1, 1998. Well, that is a couple of years ago, as I remember. When are you going to issue that revision, especially if you are leaving?

Ms. LEE. Well, now, this is the civilian agency work force. We have issued a revision having to do with their certification requirements, their education and training requirements last fall and provided waiver capability for the senior procurement executives because there was a specific affirmative education requirement there. So we have issued that guidance.

We are continuing to work with the Federal Acquisition Institute to refine the program, and Mr. Soloway and I, in the last several months, signed a memorandum of agreement because one of the other things we want to do is have better reciprocity between the defense acquisition work force and the civilian work force so that we can leverage these resources.

Mr. HORN. When did you issue that revision?

Ms. LEE. I believe it was November or December.

Mr. HORN. How long is the revision, a couple of pages?

Ms. LEE. It is a couple of pages. It explains——

Mr. HORN. Could you put it in the record at this point?

Ms. LEE. Certainly.

Mr. HORN. Fine.

[The information referred to follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

February 23, 2000

MEMORANDUM FOR AGENCY SENIOR PROCUREMENT EXECUTIVES
AND THE DEPUTY UNDER SECRETARY OF DEFENSE
(ACQUISITION REFORM)

FROM: Deidre A. Lee
Administrator

SUBJECT: Revised Qualification Standard for GS-1102 Contract Specialist Series

A revised qualification standard (copy attached) is in effect for civilian agency contract specialist positions as of January 1, 2000. This standard establishes education and experience requirements that must be met to qualify for GS-1102 positions, unless those requirements are waived as provided by the standard. To assist agencies in applying the standard, OFPP and OPM assembled the attached set of questions and answers for distribution to contracting and human resource officials. Please ensure your contracting officials are familiar with the revised standard and encourage them to work closely with their human resource specialists to implement the requirements.

OPM has posted the revised standard on its website (www.opm.gov/qualifications/sec-iv/b/gs1100/1102.htm) and will soon post the questions and answers. Issues that arise in implementing the standard should be addressed to the human resources specialists in your agency, who will be able to seek the assistance and advice of OPM, as necessary. To the extent that further assistance and advice is needed, please contact the OFPP project officer, Mr. Tony Baumann, at (202) 395-7188 or e-mail abaumann@omb.eop.gov.

Attachments
1. Individual Occupational Requirements for GS-1102: Contract Specialist
2. Questions and Answers Concerning Revised 1102 Qualification Standard

cc:
OPM

United States Office of Personnel Management

Operating Manual

Qualification Standards for General Schedule Positions

Individual Occupational Requirements for

GS-1102: Contract Specialist

*The text below is extracted verbatim from Section IV-B of the **Operating Manual for Qualification Standards for General Schedule Positions** (p.166-167), but contains minor edits to conform to web-page requirements.*

This is an individual qualification standard developed by the Office of Federal Procurement Policy under the authority of 41 U.S.C. 433. It does not apply to Department of Defense positions.

Basic Requirements for GS-5 through GS-12

A. A 4-year course of study leading to a bachelor's degree with a major in any field;

OR

B. At least 24 semester hours in any combination of the following fields: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

Applicants who meet the criteria for Superior Academic Achievement qualify for positions at the GS-7 level.

The following table shows the amounts of education and/or experience required to qualify for positions GS-7 thorough GS-12 covered by this standard.

GRADE	EDUCATION	OR	SPECIALIZED EXPERIENCE
GS-7	1 full academic year of graduate education or law school or superior academic achievement		1 year equivalent to at least GS-5
GS-9	2 full academic years of progressivcly higher level graduate education or masters or equivalent graduate degree or LL.B. or J.D.		1 year equivalent to at least GS-7
GS-11	3 full academic years of progressivcly higher level graduate education or Ph.D. or equivalent doctoral degree		1 year equivalent to at least GS-9
GS-12 and above	(No educational equivalent)		1 year equivalent to at least next lower grade level
Equivalent combinations of education and experience are qualifying for all grade levels for which both education and experience are acceptable.			

Graduate Education. To qualify for GS-1102 positions on the basis of graduate education, graduate education in one or a combination of the following fields is required: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

Note - For positions at GS-7 through GS-12, applicants who are qualifying based on experience must possess at least one year of specialized experience at or equivalent to work at the next lower level, that provided the knowledge, skills, and abilities to perform successfully the work of the position, in addition to meeting the basic requirements in paragraph A or B, above.

C. Exceptions: Employees in GS-1102 positions will be considered to have met the standard for positions they occupy on January 1, 2000. Employees who occupy GS-1102 positions at grades 5 through 12 will be considered to meet the basic requirements for other GS-1102 positions up to and including those classified at GS-12. This includes positions at other agencies and promotions up through grade 12. However, employees must meet specialized experience requirements when seeking another position.

Basic Requirements for GS-13 and Above

A. Completion of all mandatory training prescribed by the head of the agency for progression to GS-13 or higher level contracting positions, including at least 4-years experience in contracting or related positions. At least 1 year of that experience must have been

specialized experience at or equivalent to work at the next lower level of the position, and must have provided the knowledge, skills, and abilities to perform successfully the work of the position.

AND

B. A 4-year course of study leading to a bachelor's degree, that included or was supplemented by at least 24 semester hours in any combination of the following fields: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

C. Exceptions: Employees in GS-1102 positions will be considered to have met the standard for positions they occupy on January 1, 2000. This also applies to positions at the same grade in the same agency or other agencies if the specialized experience requirements are met. However, they will have to meet the basic requirements and specialized experience requirements in order to qualify for promotion to a higher grade, unless granted a waiver under Paragraph D.

D. Waiver: When filling a specific vacant position, the senior procurement executive of the selecting agency, at his or her discretion, may waive any or all of the requirements of Paragraphs A and B above if the senior procurement executive certifies that the applicant possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated analytical and decision making capabilities, job performance, and qualifying experience. With respect to each waiver granted under this Paragraph D, the senior procurement executive must document for the record the basis of the waiver. If an individual is placed in a position in an agency on the basis of a waiver, the agency may later reassign that individual to another position at the same grade within that agency without additional waiver action.

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Updated 23 December 1999

Questions and Answers
Concerning
Revised 1102 Qualification Standard

General Information

Why does the GS-1102 series have a separate qualification standard?

The Clinger-Cohen Act, issued in February 1996, amended the Office of Federal Procurement Policy (OFPP) Act to require that the Administrator of OFPP establish qualification requirements, including educational requirements, for positions at civilian agencies in the GS-1102 series (see 41 U.S.C. 433). Five years earlier, Congress had established requirements for 1102 positions in defense agencies through the Defense Acquisition Workforce Improvement Act (see 10 U.S.C. 1724, 1732). The Clinger-Cohen language stipulates that qualification requirements established by OFPP shall be comparable to the DAWIA requirements. In June 1997 the U.S. Office of Personnel Management (OPM) published a qualification standard imposing requirements established by OFPP pursuant to Clinger-Cohen.

In a nutshell, how is this standard different than its predecessor?

The predecessor to this standard introduced educational requirements that were effective January 1, 1998 for new hires and January 1, 2000 for existing employees. The revised standard does not change the minimum educational levels defined by the former standard. However, it does make three changes. First, it expands the waiver authority related to filling GS-13 and above positions. The former standard only allowed the senior procurement executive to waive one of the two educational requirements, whereas the revised standard permits waiver of any or all requirements. Second, it removes language that permitted examinations to substitute for the 24-hour requirement since acceptable examinations have not been designated. With the exception of college course credit obtained through testing programs designed to grant credit by examination (such as the College Level Examination Program), you cannot take a test to qualify in lieu of the 24 hours. Third, it replaces the January 1, 1998 date found in the former standard with a January 1, 2000 date, meaning employees hired under the former standard have grandfathering rights as "current" employees.

When does this standard go into effect?

This revised qualification standard was effective January 1, 2000. It applies to all new hires and to existing employees selected to fill GS-1102 positions in civilian agencies.

Educational Requirements

Summarize the basic educational requirements of the qualification standard.

In order to qualify for positions at grades GS-5 through GS-12, you must possess either a bachelor's degree OR have completed at least 24 semester hours of coursework

in certain business-related fields. In order to qualify for positions at grades GS-13 and above, you must possess a bachelor's degree AND at least 24 semester hours of coursework in certain business-related fields. The 24 hours may be included in, or in addition to, coursework taken to complete the degree program.

Does the phrase "a 4-year course of study leading to a bachelor's degree" mean I must have a degree, or just that I must be enrolled in a degree program?

The phrase means you must possess a bachelor's degree conferred or approved by an accredited U.S. college or university based on a 4-year course of study. Simply being enrolled and working toward a degree does not meet the qualification standard. Furthermore, "honorary" degrees or other degrees with no basis in coursework do not satisfy the standard.

Does "4-year course of study" mean I had to finish my degree in four years?

No. You can earn the bachelor's degree in whatever length of time is necessary and accepted by the college or university conferring the degree. The descriptive phrase relates to how the educational institutions characterize the degree program, not to how long it takes you personally to complete the program.

Does the degree have to be a business degree?

No. A qualifying bachelor's degree may be in any field of study and may be of any type, such as Bachelor of Arts, Bachelor of Science, and Bachelor of Business Administration. The 24 semester hours, however, must be in some combination of the eleven fields listed in the standard.

How do I document that I have satisfied the degree and coursework requirements?

You need to check with your local human resource office to see what procedures they use. If you already had a degree when you were hired, you probably furnished a college transcript with your application and, if so, that information is included in your personnel records. If you have completed courses since being hired, you will probably need to furnish evidence to your human resource office, such as a new transcript and a copy of your diploma, as applicable. It may be necessary also to provide descriptive information on a course (e.g., course syllabus) to convince a human resource specialist that a particular course qualifies toward the 24-hour requirement. You should periodically review your personnel records to ensure information has been recorded accurately, and work with your human resource office to update the records as needed. In the near future, your educational status will be maintained with other personnel and training data in a Government-wide acquisition career management information system.

When the degree AND 24-hour coursework requirements must be met for GS-13 and above positions, can I count courses taken as part of my degree program to satisfy the 24-hour requirement?

Yes, coursework could simultaneously count for the degree requirement and the 24-hour requirement. For example, if you earned a business degree, you should have completed sufficient credits in the required fields to satisfy the 24-hour requirement. However, if your degree is in another field, such as sociology, you might need to take

some additional courses in the fields identified in the qualification standard to complete the 24-hour requirement.

The qualification standard identifies eleven fields for the 24-hour coursework requirement. Does this mean an acceptable course must have a course number identifying one of the fields (for example, an "economics" course might be "ECN 401")?

The answer to this question first requires an understanding of the purpose of the 24-hour coursework requirement, which is to provide a person with a minimum amount of business knowledge. This is particularly important because the primary function of contract specialists is to negotiate and execute business relationships on behalf of the Government. The eleven fields listed in the standard are identical to those set forth by Congress in DAWIA, and presumably they were selected because they capture the types of knowledge and skills desired for members of the acquisition workforce to execute this function.

Colleges and universities do not use a standard convention for course numbering aligned to the eleven fields. For example, one institution identifies its accounting curriculum as "AMIS" courses, standing for "accounting and management information systems." Therefore, it is neither practical nor reasonable to restrict interpretation of the word "fields" to institutional programs using precisely the same language. Instead, it is appropriate to consider the identified fields as general subject areas. If the content of a course arguably fits within the general subject area represented by one of the fields, it should qualify toward the 24-hour requirement. A human resource specialist, or whoever in your organization credits completion of the 24 hours, may need to review the course syllabus whenever it is not obvious from the course title that content fits the field. Consider these examples: a sociology course in statistics; a public administration course in quantitative techniques; a psychology course in organizational behavior. If the content of these courses is comparable to, or perhaps is recognized by the academic institution as a substitute for, courses clearly resting in the listed fields, you should receive credit toward the 24-hour requirement. It is your responsibility to furnish supporting descriptive information if credit for a course is being questioned.

Can I credit procurement training courses toward the 24-hour requirement?

Not unless a college actually gives you credit under its curriculum. Education and training are separate components of agency career development programs. Training courses are designed to build job-specific knowledge and skills, complementing and supplementing the general level of knowledge and skills acquired through formal college education. The 24-hour requirement is intended to be satisfied through coursework taken at colleges and universities. A college may give credit for certain on-the-job training courses, or teach a course that has been determined "equivalent" to a prescribed training course. In such cases, you may be satisfying educational and training requirements simultaneously. However, unless a college specifically awards you course credit, your training courses do not count toward the 24-hour requirement. This is at the discretion of the college, and you do not have an automatic entitlement to the credit.

"Grandfathering"—The Exception Provisions

I am currently working as an 1102 in a civilian agency. Am I "grandfathered" for civilian agency positions based on having a certain number of years of experience (meaning the requirements do not apply to me)?

The 1102 qualification standard does have some grandfathering features for the existing workforce, although none of those features are tied to a prescribed number of years of experience. Every 1102, regardless of grade, is considered to meet the standard for the position and grade held as of January 1, 2000, and is qualified for positions in other civilian agencies at the same grade without having to meet the educational and training requirements. In addition, an 1102 can be promoted through grade GS-12 without meeting the qualification requirements. There is no grandfathering provision that allows experience to substitute for education in order to qualify for promotions to GS-13 and above.

Do existing Federal employees in other series, such as GS-1105, have to meet the educational requirements to move into the 1102 field?

Yes. The 1102 standard applies to every civilian agency 1102 position and must be met by individuals entering the series from outside the Government, or from other series within the Government. If you are a current 1105, you must meet the educational requirements to lateral or promote into the 1102 series.

What does this phrase mean: "Employees who occupy GS-1102 positions at grades 5 through 12 will be considered to meet the basic requirements for other GS-1102 positions up to and including those classified at GS-12"?

This statement is found in the "exceptions" paragraph for GS-5 through GS-12. Simply stated, it exempts employees hired by January 1, 2000 from the educational requirements for any position up to GS-12. If you meet neither the degree nor 24-hour requirement, you can still be promoted through GS-12. All individuals hired since January 1, 1998 should meet the educational requirements since they were hired under the former standard. However, many 1102s hired before January 1, 1998 do not have the education now required, and the exception accommodates those employees. Additionally, in the event someone was inadvertently hired into the 1102 series between January 1998 and January 2000 who did not actually meet the former standard, that employee would be covered by the exception.

The Waiver Provision

Who is the "senior procurement executive" as referred to in the standard?

For purposes of this qualification standard, the "senior procurement executive" is the highest career civil servant having responsibility for the procurement function within an agency (e.g., policy, procedures, workforce, etc.). Typically, this person is located in the agency headquarters office. This person may be different from the person designated as a "senior procurement executive" pursuant to the OFPP Act (41 U.S.C. 414(3)) and as defined in the Federal Acquisition Regulation, who is a political appointee in some

agencies. OFPP established the requirements of this standard with the intention that senior career procurement officials would possess the waiver authority.

Can the senior procurement executive delegate the waiver authority to my contracting office so waivers can be issued locally?

No. The waiver authority is not delegable. The contracting office desiring to hire an applicant who needs a waiver would probably have to provide justification to the senior procurement executive to aid the waiver decision, but only the senior procurement executive can grant waivers.

Can the qualification requirements for positions in grades GS-5 through GS-12 be waived?

No. All new entrants into the GS-1102 career field at grades 5 through 12 must meet the qualification requirements. The requirements cannot be waived. However, if you are already an 1102 below grade GS-12 as of January 1, 2000, the "exception" language of the standard allows you to be promoted through GS-12 even if you do not have the education specified by the standard.

Do I need a waiver for any promotions up to GS-12?

No. A waiver is not necessary for promotions under grade GS-13 because all promotion candidates would either meet the standard or qualify for the "exception" at those lower grades. Waivers only exist for the requirements that apply to positions at GS-13 and above.

I do not meet the educational requirements for a position at GS-13 and above. Do I have to obtain a waiver to apply for a job?

No. The senior procurement executive of the hiring agency must grant a waiver only if the agency wants to select you to fill a position. If the vacancy announcement indicates that waivers may be granted, you can apply for the position. The human resource office will forward your application for review, along with the other applications, with a note that one or more applicants may need a waiver.

How will vacancy announcements inform potential applicants about the possibility of a waiver?

When drafting vacancy announcements, human resource offices extract information from relevant qualification standards. In the case of 1102 positions, if an agency has decided for a specific vacancy that it will consider applicants who need a waiver, the vacancy announcement will state that candidates who do not meet the qualification requirements may be considered for a waiver in accordance with the standard. At the agency's option, the waiver may be applied to any of the educational, training, or experience requirements, or combination thereof, as specified in the vacancy announcement.

Can I get a waiver and "carry it with me" every time I apply for a job?

No. A waiver is the prerogative of the hiring agency and would be granted based on the unique circumstances of a hiring action. "Blanket" waivers do not exist.

If I receive a waiver for a GS-13 position, do I need a new waiver for a GS-14 promotion, even if it is in the same agency?

Yes. Waivers are specific to a selection action, so any selection for a future promotion would require another waiver if you still did not meet the qualification requirements.

Do I need a waiver to lateral?

The answer depends on the circumstances. A "lateral" is a reassignment into a position at the same grade. If you meet the qualification requirements, obviously you can lateral into positions within your own agency or other agencies without a waiver. If you do not meet the qualification requirements, the rules vary by grade and circumstances as described here. There is no waiver provision applicable to grades GS-5 through GS-12, only for grades GS-13 and above. Below GS-13, the "exceptions" language of the standard permits you to lateral into a position at any agency and then to continue to be eligible for promotions through GS-12. For grades GS-13 and above, the "exceptions" language permits you to lateral into positions at your agency or other agencies at the grade you occupy as of January 1, 2000 without a waiver. These "exceptions" are "grandfathering" features afforded to the existing workforce.

Suppose you are promoted into grade GS-13 or above after December 31, 1999 on the basis of a waiver. The need for a waiver for a subsequent lateral in this circumstance depends on whether you are changing agencies. If another agency wants to lateral you into one of its GS-13 or above positions, that agency must grant a waiver in order to give you the lateral. If your own agency (the one that gave you the waiver for the position you now occupy) wants to lateral you into another position within the agency, it may do so without processing a new waiver, even if geographic relocation is involved. For example, if you were promoted to a GS-13 Contract Specialist position at NIH-Bethesda MD based on a waiver, you could be selected for a lateral into a GS-13 Procurement Analyst position at CDC-Atlanta GA without the HHS senior procurement executive granting another waiver (since both organizations are within HHS). However, you could not lateral from the NIH position into a GS-13 Contract Specialist position at EPA unless the EPA senior procurement executive granted you another waiver.

Have criteria been established for issuing waivers?

No. The waiver authority was created to provide flexibility to accommodate unique circumstances faced in each agency, but it is expected that waivers will be the exception rather than the rule. Waivers will be considered on a case-by-case basis within an agency and granted in those exceptional cases where the best candidate for a specific job does not meet some requirement of the standard. For example, an agency could benefit from this authority when hiring for hard-to-fill positions or duty locations where it is difficult to attract qualified candidates. Another case may be where a strong performer is on a career ladder but fails to meet the requirements for promotion. Hiring is an agency responsibility, and the decision to grant a waiver of the qualification requirements is at the discretion of the agency's senior procurement executive. Since you do not need a waiver to be considered for a position, and provided the announcement states waivers may be considered, hiring officials will review your qualifications and rate you against

other applicants. If the hiring official considers you the best candidate for a position, presumably the official would seek a waiver to allow your selection.

Must the applicant specifically request a waiver when applying for a position where the vacancy announcement indicates waivers may be considered?

Submittal of the application implies a request for waiver when the applicant does not meet the requirements of the standard. Although the standard specifically identifies the senior procurement executive as having waiver authority and responsibility, the likely practice will be that a selecting official prepares and submits a justification document to the senior procurement executive relating the applicant's background and characteristics to the performance requirements of the job being filled. It is the agency's responsibility to document its decision to issue a waiver.

Relationship Between Civilian Agency and Defense Agency Positions

I am a civilian agency 1102. Can I qualify for a DoD position?

The qualification standard does not apply to defense agency positions; instead, applicable requirements are set forth in DAWIA. However, comparability exists between both sets of requirements. DoD positions through grade GS-13 require either a bachelor's degree OR 24 semester hours in identified fields, which is the same requirement the 1102 standard sets for civilian agency positions through grade GS-12. DoD has also created an "acquisition corps" to fill GS-14 and above positions, with GS-13s eligible for membership. The acquisition corps requires a bachelor's degree AND 24 semester hours, like the 1102 standard requires for GS-13 and above positions. If you meet the DAWIA educational requirements, you could qualify for DoD jobs. If you do not meet the educational requirements, but you have at least ten years of acquisition experience as of October 1991, you are grandfathered by DAWIA and could qualify for DoD jobs. If you do not meet the educational requirements or have enough experience to be grandfathered, you are not qualified for DoD jobs, even though you may be grandfathered for civilian agency positions under the qualification standard. However, DAWIA does allow DoD to waive the requirements to hire you.

I am a defense agency 1102. Can I qualify for a civilian agency position?

Like anyone else competing for a civilian agency position, generally you would have to meet the educational requirements of the standard for the position you seek in order to qualify. Suppose you do not meet the educational requirements. If you were an 1102 as of January 1, 2000, the standard allows you to obtain a lateral or a promotion into a civilian agency position at grades GS-5 through GS-12. At grades GS-13 and above, you could lateral only into a position at the same grade that you held as of January 1, 2000. For promotions into civilian agency positions at grades GS-13 and above, you are not qualified if you do not meet the educational requirements; hence, you could only receive such a promotion if the hiring agency issued you a waiver. Your "DoD grandfathering" does not extend to civilian agency positions and does not give you access to promotions outside DoD. After you are placed in a civilian agency position, you are subject to the qualification standard for future civilian agency promotions. If you lateral

into a civilian agency position below GS-12, you would be eligible for promotions through GS-12 even though you do not meet the educational requirements. For promotions to grades GS-13 and above, you would have to obtain a waiver if you do not meet the educational requirements.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

November 10, 1999

MEMORANDUM FOR PROCUREMENT EXECUTIVE COUNCIL MEMBERS

FROM: Deidre A. Lee
Administrator

SUBJECT: Memorandum of Agreement Regarding Acquisition Workforce Training

I am excited to share with you the attached memorandum of agreement (MOA) on acquisition workforce training that I have entered into with Stan Soloway. This MOA is a major step toward establishing reciprocity between Defense and civilian agency training programs.

Pursuant to this MOA, the Defense Acquisition University (DAU) will provide its course materials to the General Services Administration (GSA) so contractors under GSA's new training Multiple Award Task Order Contract can teach the DAU courses. DAU will also review courses developed by those contractors to grant equivalency between those courses and DAU courses. Aside from reviews on courses taught by academic institutions, this marks the first time DAU will review commercial offerings and determine such courses equivalent to DAU's own courses. The immediate result will be wider access by civilian agencies to the curriculum found in DOD's training program. In the larger picture, it sets the stage for us to examine how we are training our workforce, and to address differences among agency programs that may be limiting interagency mobility opportunities.

My staff will involve the Procurement Executive Council's acquisition workforce subcommittee in our efforts to implement this MOA, and I invite each of you to follow our progress personally. Ultimately, I want us to reach the point where all agencies will institute reciprocal recognition of training; that is, regardless of what agency trains an individual, the individual's training will be accepted all agencies.

If you have any questions about this MOA or related issues, please contact Tony Baumann at (202) 395-7188 or e-mail abaumann@omb.eop.gov.

Attachment

cc: Deborah O'Neill, FAI

MEMORANDUM OF AGREEMENT
REGARDING WORKFORCE TRAINING
MADE BETWEEN
THE OFFICE OF FEDERAL PROCUREMENT POLICY
AND
THE OFFICE OF THE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION REFORM

I. Purpose

This memorandum of agreement (MOA) between the Administrator of Federal Procurement Policy and the Deputy Under Secretary of Defense for Acquisition Reform lays a foundation for greater cooperation between Civilian and Defense agencies in training the Federal contracting workforce.

II. Background

The Office of Federal Procurement Policy (OFPP), through its Policy Letter 92-3 dated June 24, 1992, established a standard set of competencies in which every Federal contracting official is expected to attain an appropriate level of skill. Nonetheless, Civilian and Defense agencies have been delivering different training courses to achieve those competencies, with agencies often reluctant to recognize training across the Civilian/Defense line. The Defense Acquisition University (DAU) has primary responsibility for training the Defense workforce, while Civilian agencies have relied on a variety of training sources to support their workforce. Recently, the General Services Administration (GSA) awarded a Government-wide, Multiple Award Task Order Contract for procurement training of the Civilian agency workforce, wherein the awardees will deliver their own courses as well as courses developed by DAU. Despite the progress seen in this new training arrangement, the parties to this MOA understand that further action is necessary. Ultimately, our goal is to ensure that training throughout the Federal sector satisfies a uniform set of required competencies, is recognized by all agencies, and is delivered in a manner suited to the demands of the 21st Century acquisition environment.

III. Short-Term Actions

In the near-term, we will focus on ensuring reciprocity of training between Civilian and Defense agencies. Such efforts will establish the cooperative spirit necessary to lead us on a successful path into the next century.

A. DAU will provide its course materials, including any updates and courses that may be developed by DAU in the future, to GSA for use in training the Federal contracting workforce under the GSA training contract.

B. DAU will work with GSA and the contractors holding GSA's Multiple Award Task Order Contract to implement a process for performing equivalency reviews of contractor-developed training courses. Upon determining equivalency, DAU will authorize the contractors to include the statement, "DAU-Determined Equivalent to CON *XXX*" (with the appropriate DoD course number identified), on certificates of course completion.

C. OFPP will work with the Senior Procurement Executives of Civilian and Defense agencies to secure reciprocal recognition of DAU courses within agency training programs.

D. OFPP will coordinate an ongoing effort between the Federal Acquisition Institute (FAI) and DAU to explore approaches for verifying, validating, and certifying Government and commercially available training as satisfying required competencies, and for achieving Government-wide recognition of courses for meeting training requirements.

E. OFPP will participate in DoD-sponsored working groups focusing on the future acquisition workforce, and will involve DoD in similar groups being coordinated by FAI on behalf of OFPP. This will ensure integration of Civilian and Defense agency perspectives and avoid duplication of efforts.

IV. Long-Term Objectives

OFPP and DoD agree to pursue the following long-term objectives, with the assistance of FAI, agency Procurement Executives, and other participants as appropriate:

A. Explore the roles and responsibilities of the Federal contract specialist of the 21st Century;

B. Propose the competencies necessary to adequately perform in a 21st Century contract specialist position; and

C. Propose a framework for determining the education and training requirements to equip the 21st Century contract specialist with necessary competencies, and for delivering that training across the Federal workforce.

V. Implementation Timeframe

OFPP and DoD will immediately undertake the short-term actions identified in this MOA, with a completion goal of six (6) months. DAU interface on course materials and equivalency reviews will be ongoing. Pursuit of long-term objectives will commence immediately, but it is expected to evolve over a two (2) year period. Within that schedule, efforts to determine roles and responsibilities should conclude in six (6) months, followed by another six (6) month period for definition of competencies. Design and establishment of the training framework is expected to cover another twelve (12) months. The parties commit themselves to any actions deemed necessary to implement the intent of this MOA.

Deidre A. Lee
Administrator
Federal Procurement Policy
Date: November 10, 1999

Stan Z. Soloway
Under Secretary of Defense for
Acquisition Reform
Date: 22 OCT 1999

Mr. HORN. Now, for the General Accounting Office, you have been very quiet, Mr. Hinton. We have not bombarded you with anything. Have there been any consequences for the Office of Federal Procurement Policy's delay in issuing the revised guidance?

Mr. HINTON. None that I am aware of right now, Mr. Chairman.

Mr. HORN. The General Accounting Office recently reported that the General Services Administration and the Department of Veterans' Affairs had not complied with the OMB guidance requiring them to establish training for their entire acquisition work force. The GSA was requiring only 16 hours of continuing education every 2 years, contrary to the 40 hours required by the guidance. What would you say about that, Ms. Lee? Is that the steps your office is taking to ensure that the agencies are complying with your guidance?

Ms. LEE. I am aware of that GAO report and we are working with the agencies on this overarching training plan, trying to help them provide the training, Internet-based, et cetera, because as you know, there are expenses and resources involved. So we are trying to say, how can we deliver effective training more efficiently and make it cross the acquisition work force?

Mr. HORN. Do you think a lot of that will be done before you leave, or who is going to take over, do we know?

Ms. LEE. No, I do not, but the Federal Acquisition Institute is working aggressively on that and we have got quite a program going.

Mr. HORN. According to the Defense Inspector General, there is inadequate auditing of acquisition programs at the Department and the Inspector General notes that, currently, less than 10 of the several hundred weapons systems projects are being comprehensively reviewed each year. He calls for a broad, systematic program of comprehensive audits of acquisition programs. I guess, Mr. Soloway, would you agree with the Inspector General of Defense on that matter?

Mr. SOLOWAY. Truthfully, sir, for the record, I do not think I would. I think we have extensive auditing that goes on as a matter of course in particularly all of our major systems programs. But I think the term of art when Bob talks about auditing may be a little bit different than the standard auditing that you and I may be thinking of.

But, in fact, I think we have a very aggressive program of oversight and review of our major programs and have an increasingly good handle on costs and performance and so on. Where we do agree with the Inspector General is that in the area of services acquisition, we have to get smarter about how we do them and I think we are doing that and we are, in fact, working with the IG in a number of areas along those lines.

Mr. HORN. The GAO, as you know, has cited a number of instances in which the Department of Defense has initiated production contracts on a weapons system, aircraft, other vehicles prior to determining whether the item will work as designed. This practice has resulted in cost overruns, schedule delays, and degraded performance. Do you agree with that?

Mr. SOLOWAY. I think overall we do agree with that, and sir, I think in my testimony one of the points I tried to make, and did

not spend a lot of time on it, is that we are now in the process of revamping what we call the front end of the acquisition process, which is where the GAO really is focusing this question, to focus more on the question of technology maturity before moving into full program development and so on.

This new rewrite of what we call our 5,000 series, which is the guidance and regulations for our program management systems acquisition personnel, really now will focus on the requirements of process and how we use flexibility in the requirements to make smart decisions that are based largely on technology maturity so that we do not get ourselves into that bind. It is not only a question of technology capability and whether the system is going to work. It also drives cycle times, it drives costs. We end up occasionally with systems that go into the field that the technology we have been reaching for may be very current, but other technologies in the system by that time are obsolete.

So what we are really trying to do is to capture some of the best lessons we have learned through a program that is known as the Advanced Concept Technology Development program, where you really look at technology maturity and utility in the field before you make that program decision. We have worked very closely with the Joint Staff on this. The chairman has already had his instructions rewritten and we are in the process of revising ours so that we do not get into that situation in the future.

Mr. LIEBERMAN. Mr. Chairman, could I have just a couple of seconds to comment?

Mr. HORN. Yes.

Mr. LIEBERMAN. I think that the Y2K conversion experience was a graphic example of the benefit of independent review of information that is generated by program offices in any large organization, and I do not think, frankly, that that exercise would have been successful or credible had there not been a source of independent verification. Auditors stepped up to that role and I think our contribution was recognized.

Similarly, well, the whole question of auditing weapon system programs has troubled me for many years. I have been in the IG business now for 20 years. The acquisition community is one of the few management groups in the Department of Defense that sees very limited value in auditors coming in and looking at their programs. There is absolutely no comparison between the number of audit suggestions coming from, say, the logistics community, the finance community, the health community, and the number of suggestions coming from the acquisition community, which takes a very passive attitude in general. There are exceptions, but certainly for major weapon systems, I would stand by that statement.

We are doing some audits of those systems, but many do not get auditing at all. GAO steps into that gap and does quite a bit, but there is still a gap left. When we do go in and look at these systems, unfortunately, sometimes it is after the fact. We were asked by the Congress to do post-mortems on two failed programs last year, an Army tactical intelligence sensor program that cost $900 million and achieved not much of anything, and an information management system for the commissary agency that cost more than $60 million and was a complete failure. In both those cases,

I know that we could have given early warning that those programs were in trouble, but what came through the management reporting chain was unrelenting good news. Everybody is always moving forward and nobody wants to admit problems because of the resource competition that Mr. Hinton referred to earlier.

So I disagree with my good friend, Mr. Soloway. I think there is a need for more auditing on a selective basis, driven hopefully by risk assessment methodology so that we are sure we are going to add some value.

Mr. HINTON. Mr. Chairman, could I also weigh in on this a little bit? Mr. Soloway is exactly right. We have been working with his office in terms of the body of work that we have done over the years looking at the best practices in the acquisition arena and making suggestions based on what we have learned from our work as to how DOD could improve itself in overseeing and managing the programs. We are encouraged by what we are hearing as DOD is formulating its new regulations, but the proof is in the pudding, that is, the implementation of what is going to happen, the outcome of the recommendations.

Based on all the work that we have done over the years, in order to really get at the problems that we have seen, you have got to get at the root causes for the prevailing practices that we see of overpromising on performance and underestimating program costs. These causes go back to funding competition within a service and between services, preserving programs from candid criticisms, service rivalries and routinely making exceptions to sound principles. Once we recognize the root causes, I think there are three things that need to occur and we need to see the Department demonstrate or else we will be back here next year or the year after talking about the same symptoms that we see in a lot of the acquisitions.

One of the first things that we see is the need to have a policy that really spells out best practices that will work in DOD. That policy must recognize the changes that are needed in the environment, in the culture, in the incentives that will drive the culture and the behavior to act differently.

A second point, and it is one that has been a constant theme throughout the statements and in our oral statements this morning has been that the acquisition work force needs to be very effectively trained on how to implement that policy.

Third, and very importantly, the policy needs to be enforced. And that goes right to the heart of funding, making critical decisions when we have programs coming through and someone raising their hand to say we have got problems. We should not be going forward. The technology is not where we need it to be before we move forward into the engineering and manufacturing phase of the acquisition process.

It is going to be that case-by-case demonstration for us to see whether or not the behavior and the policies are going to change. That is based on a large body of work that we have done, and like I say, I am encouraged with where DOD is headed, but the proof is going to be in how it is implemented.

Mr. SOLOWAY. Sir, may I just add one more point, not in an argumentative vein, but to this issue.

Mr. HORN. Sure.

Mr. SOLOWAY. I think that maybe we ought to look at the way we are structuring the process now, and if I could suggest a way in which we can achieve some of the goals that both Mr. Hinton and Mr. Lieberman are talking toward. All of our major weapons programs now are managed through what we call the IPT process, Integrated Product Teams, bringing together the various disciplines. It seems to me, to the extent that resources permit and so forth or where there are high-risk or high-visibility programs that are of interest to the Inspector General's office, that an ongoing partnership as part of the IPT might bring a different cast to bear, if you will, on the process. There is always a tension between auditors and performers and there is always this natural, sometimes very constructive tension between people feeling like they are being checked out as opposed to people feeling like they are in an environment of partnership.

One of the successes that is in process, we think, now is this whole, as I mentioned, strategic alliance, where the Inspector General, our office, and a bunch of other players are working together to construct a different business model, and I think the IPT process that we have in place already with our major programs really offers an opportunity to provide the access and the insight for folks like the Inspector General to then identify problems as they are coming along, potentially work them out in that environment as opposed to the perception of another check coming down the pike, which is always going to create some tension.

Mr. HORN. Let me go back to spares on this particular dialog here. The Inspector General in their report of March 8, 2000, noted that the Department paid from 124 percent to 148 percent more than what was fair and reasonable for propeller blade heaters for the C–130 and the P–3 aircraft. Now, does the Department of Defense agree with that or do they think it is mythology by the auditors?

Mr. SOLOWAY. To be very frank with you, sir, this is a matter that has been under significant discussion and debate between us and the Inspector General for some months now, and it gets back to the point I made earlier. The price comparison becomes questionable in our mind when one recognizes that previous purchases of that part were for the part itself, whereas today those purchases are part of a virtual prime vendor or prime vendor arrangement in which a whole range of services in addition to the part are being provided—supply management, inventorying, warehousing. We are not buying hundreds of parts and putting them into warehouses. All of that responsibility has been turned over to the contractor and so on. So there is a whole service associated with what we are buying in those parts.

In addition to the actual cost there, you want to also look at the impact of that relationship on the total business chain, as any good business model would do, and this was the intent of the independent business case that the Defense Logistics Agency conducted, their analysis that they had conducted by KPMG some time ago.

What we have seen with this contract to date, and we have had several very aggressive reviews of it and put DLA through some very difficult, tough questions, as well as the contractors, brought them in and really looked hard at it, we see significant improve-

ment in parts availability across the board. We see a 30 percent reduction in the repair turnaround time, and all of that thus, as I said in my statement, translates into increased readiness and mission capability and availability of capital assets.

That analysis, that broad sort of supply chain or value analysis, is not, in fact, part of the report that the Inspector General's office has issued, so we have been engaged, and I believe that—I have not seen the final version of the report. Of course, we saw a draft, but we have been engaged in an active discussion with them for some time over the need to step back and look at some of these bigger questions.

Now, I will acknowledge to you that we cannot, the DLA cannot or the Air Force cannot point to specific dollar values for each of those pieces themselves. This is a very new environment for the Department of Defense, as it is for much of industry. How do you do value chain analysis across the board? But what we do know is that a 30 percent reduction in repair turnaround time, improved parts availability, improved availability of capital assets has tremendous value. So we are not at all convinced that the prices being paid are unfair and unreasonable.

Now, in some cases, there are prices that are being paid that have been identified either by the IG independently or previously by Defense Logistics Agency, which in the last couple of years has put into place a system, a sort of a red flag system, if you will, to identify situations where one of these thousands of parts prices has, in fact, gone up what would appear to be precipitously, and in many of those cases, they have been successful in renegotiating prices. I believe, I am not sure if it is the blade heater specifically or one of the other parts covered in that report, have recently reduced the price by about 20 or 25 percent through negotiations, with another expected reduction in the next round, the next renewal of the contract.

So there is a system in place to identify this. It is imperfect. We are dealing with tens and tens of thousands of parts. We are dealing in some cases with parts that are misidentified or mislabeled and so forth as a result of a turnover of responsibility over the last several years from the services to DLA of literally millions of NSNs, we call them, part numbers. But I do think that if one looks at the steps that have been taken, they are very much in consonance with what the IG has recommended.

And for the most part, the timeframes of the actions cited in this current C–130 report are contemporaneous with the earlier reports. We are talking about sort of a 1996–1997 timeframe, not 1999–2000, because it would be impossible for them to have had that audit visibility at this point. But the performance on the contract and what it has resulted in to us suggests to us that this is a very excellent vehicle. It works very well for the benefit of the Department and the taxpayer.

Mr. HORN. Well——

Mr. LIEBERMAN. Could I respond to that?

Mr. HORN. Please, because I was going to ask you this question. You might want to respond to this, too. Why was your focus limited to aviation spare parts or are you looking at other situations of cost overrun and overpricing and underpricing and all the rest? So

maybe you could tell us a little feel about that. You have done a great job where this is.

Mr. LIEBERMAN. Let me address those questions first. We got into the aviation spares area because of a hotline complaint regarding spare parts on a specific contract, a new type of contract the Defense Logistics Agency referred to as a corporate contract. Once we got into that, we found this was merely one of a whole family of very similar contracts, basically in the aviation spares area. The Defense Logistics Agency was trying to adapt what it considered to be commercial buying practices. This related mostly to going into commercial catalogs that companies like Boeing and Allied Signal had in order to buy spare parts.

So we have stayed in the aviation area because there were multiple contracts and we have worked through half a dozen of them now one by one. We have not been asked to look at other types of spare parts, nor, frankly, do we have the staff to do so. So whatever we say about spare parts, it is fair to say that we should not generalize and I would not say that every kind of commodity DOD buys has the same kind of problems.

Prices paid for aviation spares historically have been controversial. The coffee pot, the toilet seat, and the hammer were all going into airplanes, as I recall, or at least the first two were, for sure. Aviation spares were really the center of attention in the early and mid-1980's. Therefore, it has always been a sore point. But we did not single out those companies in those contracts. As I said, it was all driven by a hotline allegation, which then led us to wonder whether the problems on that contract were an anomaly or whether they were widespread across that whole kind of contract and we found the latter.

Now, talking about the virtual prime vendor contract, both of our reports are out in final. I would urge Mr. Soloway to read them because they address every single one of the points he just made. I am constrained in talking about this at this hearing because these reports are still for official use only. We do not want to violate the law by disclosing proprietary data of the contractor, and basically, we have to be very careful with disclosing numbers.

What I can say, though, is that we are not mindlessly comparing the cost in this contract with the cost of the part way back when, and saying the difference is bad. We realize full well that the Department is buying services along with the parts on these contracts, and that would be fine if, and the KPMG study has the same big "if" in it, you really need those services. Do you need to hire a contractor who, in essence, acts like a wholesale supplier? He is a vendor. He does not make most of the things we are talking about. He goes out and buys them for you. He acts just like the defense warehouse we were talking about before, except hopefully he does it a lot more efficiently in using modern business systems and modern business practices.

Do you really need a wholesale level if, for example, you have a part where you know exactly how many you are going to need each month, the supply is very predictable, you know exactly who is going to need them and where they are going to be needed and it makes no particular sense to have any kind of middleman or any wholesale inventory. Why not just ship directly from whoever

makes them to where they are needed? So buying services, paying extra bucks to buy services that we did not really need to buy in the first place has been a recurrent issue through all of these audits.

Now, as Mr. Soloway has said, we have been working with the Department to migrate out of that whole generation of contracts, into a new generation of strategic supplier alliances. I do not know who coined that term. I hope it was not anybody in my office, but anyway, these are much more sophisticated arrangements, much more precise pricing based on what kind of support do we really need vis-a-vis each one of this whole market basket of parts that we are talking about with each one of these vendors. I believe that the vendors will like it better, and DOD will like it better. DOD will certainly get more value for its money under these arrangements.

Whether all the suppliers will be willing to negotiate those kinds of arrangements or not, I do not know. They may not be. But this is the way the tide is running right now. In fact, the Defense Logistics Agency has agreed, this contract had serious flaws and will be replaced, hopefully, by a new arrangement, an SSA.

Mr. HORN. Mr. Lieberman, is it within the Inspector General's jurisdiction to not only look at the money side but to look where retirees have come from the civilian and military side in some of these firms that seem to have this nice pricey situation where they can raise the amount to 124 percent to 148 percent? I would like to see that, because obviously there are some connections around here somewhere, I would think. We ought to at least go in with that hypothesis.

Mr. LIEBERMAN. Well, we have not done any recent work on that. What you are talking about is the infamous revolving door syndrome.

Mr. HORN. And what President Eisenhower had to say in his last address to the Nation, which was the military industrial complex.

Mr. LIEBERMAN. Well, there are——

Mr. HORN. Some of us were discussing that last night around here, that we actually remember that speech.

Mr. LIEBERMAN. I have been around a long time. I have worked under a lot of Presidents, too, but Eisenhower was not one of them.

Mr. HORN. Well, I did. I was assistant to the Secretary of Labor and he was a great man. He is slowly getting his own by the historians that do not quite know how you should pick Presidents anyhow. But Eisenhower had strong feelings on this. We ought to give you the Eisenhower medal for those reports.

Mr. LIEBERMAN. Well, there are very specific laws. In fact, this is an area where, if anything, we probably over-regulated in terms of what the standards are for avoiding conflict of interest. The Ill Wind scandal of the mid-1980's where a senior Navy official was bribed set off a chain reaction of legislation and, in fact, the folks here on my left probably know a lot more about that than I do.

We have, indeed, been asked from time to time to look into situations where there was some evidence of breaking those rules and those can turn into criminal cases and there have been some criminal investigations driven by that sort of thing. I cannot say, though, that we have done any audits that have traced or found

any particular trend in terms of who it is that the contractors are employing or who owns the companies and what kind of prices are charged to the Department as a result.

And in fairness, I should say that in all these spare parts reports, it is not the contractor's fault. I think Mr. Soloway would agree. These are not cases of DOD getting ripped off by contractors. These are cases where DOD did not make very good deals and the contract terms just were not particularly favorable to the government.

Mr. HORN. How have we solved that, Mr. Soloway?

Mr. SOLOWAY. I think that the point Mr. Lieberman just made is the critical one, that we are not dealing by and large here with cases where we are concerned that we are being ripped off, if you will, but where we are making the intelligent decisions, have systems in place to identify outlier prices, and have training in place for our folks to really understand how these processes can work and how these commercial practices of supply chain management specifically can work, and that is much of the training that I spoke of earlier during the day.

I think one good example of this is in the two of the three reports that the IG released a couple of years ago in this area. One of the major issues in those contracts was that we were using the contract vehicles incorrectly and we had people in the field who did not understand. For instance, we had a contract, I believe it was with Boeing, where it was for urgent requirements, where we had an aircraft on the ground and it was a 24-hour guarantee, get the part anywhere in the world, for which you obviously pay a premium price, and we found cases where people were buying for stock from that because it was not adequately trained and communicated to them the nature of the contract.

So I think this really is, and I think that the Inspector General, Mr. Lieberman, and others have been very clear about the sense that we have started to take the right steps toward training the work force, providing the training that is needed, and creating a different sort of knowledge base that goes into utilizing these business arrangements.

Mr. HORN. Ms. Lee, you have listened patiently to this dialog. Do you have any comments to make on it?

Ms. LEE. I agree it is a work force challenge. We have got a lot of work ahead of us, but there are good things happening and we do need to look at what is the result. Do we have more aircraft up? Do we have a shorter turnaround time? Are we more ready? And somehow we have got to balance those very important results issues with our business deals and that is why we are trying to make sure we have workers who are truly business managers and can make these kind of business decisions.

Mr. HORN. But you would agree the taxpayers deserve the best price and the best quality?

Ms. LEE. Absolutely.

Mr. HORN. Mr. Hinton, what does the General Accounting Office think of this debate?

Mr. HINTON. I am kind of coming out where Ms. Lee is there and I do think that one of the most critical issues that we have right now is two-fold, actually three-fold, Mr. Chairman. One is looking

at the major weapons systems and getting the outcomes that we really want.

Second, as we move forward on all of these high dollar-value information technology projects, we must have the right leadership and the commitment in the leadership, a good game plan going in, a good handle on the requirements of what we are after, and a good finance plan.

And third, and I think very critically, is the issue that we have all talked about today, the work force issue, particularly in DOD, as DOD has downsized. We have embarked on a very broad defense reform program over there. We are moving into electronic commerce, a whole new area over there. It is going to require new skills, new knowledge, new abilities, and we are at a point where we have got to make sure that we have got the right balance in the work force that is going to be able to carry us forward from where we are right now. So I do think that they are the top three from where we would come from.

Mr. HORN. Somewhere in the back of my head, the figure 36,000 is applied to the Pentagon in terms of the number of people they have got involved in acquisition, purchasing, so forth. Is that a possibility?

Mr. SOLOWAY. We have our total what we call core acquisition and technology work force. It is not just contracting people, but all, as Mr. Lieberman called it, the panoply of skills that support them, is actually about 150,000, about 19,000 of whom actually have the right to sign contracts and commit.

Mr. HORN. Well, that is interesting.

Mr. LIEBERMAN. In the congressional definition, it is 230,000.

Mr. HORN. The what? 230,000 overall or what?

Mr. LIEBERMAN. There is a congressional definition that includes everybody who works in an acquisition organization. That includes many administrative people but that is the congressional definition of acquisition work force and it adds up to a whopping 230,000, even after being downsized from 460,000. But the acquisition core itself is 129,000.

Mr. SOLOWAY. We actually went through a whole process with Congress a couple of years ago to redefine that acquisition work force because of some efforts Mr. Hunter and others had underway to require reductions and there is a report we submitted called the "Section 912 Study" in which we redefined that work force and that is how we come up with this 130,000, 150,000, depending. It is a slightly variable number, but it is a lot of people and a lot of training requirement.

Mr. HORN. Well, exactly. That is the point here, that when you have got people working their way up to be sufficiently qualified and see a career lying ahead of them, they might stay there, and it seems to me that is even more that this curriculum ought to be working through Internet, all the rest of it, and distance learning when you are at bases spread all over the world. We ought to be able to do a good job of that.

Has the IG or GAO looked into strictly the curriculum bit there? I know in passing some of you did, but——

Mr. HINTON. In the acquisition arena, we have, Mr. Chairman, and one of the best practice reviews we did was looking specifically

at training. And when we compare DOD as to what commercial firms are doing outside, the commercial firms have a very strategic approach to how they train on best practices when an initiative comes about.

Key to that is having leadership, and key to that is being focused and having the resources and the undivided attention of the work force that you are trying to train. We sat down with Mr. Soloway and have gone through that and that is one area, as he remarked earlier, that they are embarking on and trying to get revisions, improvements in the training program. I am encouraged by the direction they are moving in.

Mr. HORN. Thank you. Does anyone want to make a last comment on this? Yes, Mr. Lieberman.

Mr. LIEBERMAN. Actually, we have not looked at DOD acquisition training from an audit perspective, but I try to send my auditors to the exact same training that the acquisition people get. So we have a lot of first-hand feedback from auditors who went and took courses. I would say that the quality of the instruction is excellent. The problem has been over the years that the curriculum is too limited. It is too heavily oriented toward major weapon systems acquisition. It needs to be somewhat expanded and DOD needs to find ways to cycle more people through either formal training or, as you say, nowadays there are other ways to provide people a way to get themselves into this continual learning mode, which is what we have to strive for.

Mr. HORN. Yes?

Mr. SOLOWAY. We have a very tough continuous learning requirement at DOD, relatively speaking, of 80 hours every 2 years. As I said earlier, we are going to be creating a core curriculum within that, and most of that is distance learning, web-based opportunities. We are going to be creating a core curriculum which will require our work force to take some percentage of that continuous learning from a given menu of courses which will evolve and change over time. As we reach certain training milestones with the work force, we will be injecting new stuff into that and that will become a dynamic core curriculum, if you will. But each of the things that have been said here by Mr. Lieberman and Mr. Hinton in the training area we agree 100 percent with and, I think, are really moving out aggressively in all of those areas.

One of the things you also find in the corporate world, and I just spent 2 days looking at this in a number of different companies, is what they call corporate universities and how they train their executives and do executive and practitioner education. We have a schoolhouse in the Defense Acquisition University which is not just a schoolhouse but extensive distance learning, and we are in the process now of transitioning some of those top attributes of a corporate university, of the kinds of things that Mr. Hinton talked about, which is real-time knowledge, real-time practitioner experience, best practices, and specific targeted training, into that system.

Mr. HORN. That is very helpful. Ms. Lee, one last comment. The question I should have asked and did not, you can answer it now.

Ms. LEE. The question you should have asked and did not?

Mr. HORN. Well, we will miss you. Maybe we will follow your career over there or something and get you here as a witness under oath.

Ms. LEE. Thank you very much. It has been a pleasure.

Mr. HORN. We thank you all. I know it has been a long day, but we appreciate you sticking it out and sharing your views on this. If you have any other thoughts you would like to add to the record, just send it over to the staff. We will be glad to put it in the record at whatever place you would like to have it. We will now move to panel two, and we thank panel one.

We have General Tuttle and then Mr. Grant Thorpe, Mr. Gary Engebretson, and Mr. Leinster.

Please raise your right hands.

[Witnesses sworn.]

Mr. HORN. Yes, sir. The clerk will note that the four witnesses have taken the oath and we will begin with General William Tuttle, Jr., who is retired, president of the Logistics Management Institute on behalf of the Procurement Round Table. General, we are glad to have you here.

STATEMENTS OF GENERAL WILLIAM TUTTLE, JR. (RET.), PRESIDENT, LOGISTICS MANAGEMENT INSTITUTE, ON BEHALF OF THE PROCUREMENT ROUND TABLE; GRANT THORPE, SENIOR CONTRACTS MANAGER, TRW, ON BEHALF OF THE PROFESSIONAL SERVICES COUNCIL; GARY D. ENGEBRETSON, PRESIDENT, CONTRACT SERVICES ASSOCIATION; AND BRUCE E. LEINSTER, INDUSTRY EXECUTIVE, CONTRACT AND ACQUISITION POLICY, GOVERNMENT INDUSTRY SECTOR FOR IBM, ON BEHALF OF THE INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA

General TUTTLE. Chairman Horn, my name is Bill Tuttle. I am the president of Logistics Management Institute, as you just mentioned, but I am here today representing the Procurement Round Table, a nonprofit organization of 39 former Federal acquisition officials who serve pro bono in advising and assisting the government in making improvements in Federal acquisition. My statement, provided for the record, is our recent paper entitled, "The Federal Acquisition System: Transitioning to the 21st Century."

As has been mentioned before, annually, the Federal Government acquires from the private sector roughly $200 billion in goods and services for its use. The Procurement Round Table [PRT] as I will call it in the future—you have to use the acronyms—our objective with this paper is to stimulate continuing reforms in the process by which the government obtains these goods and services, reforms that will help prepare the critical Federal acquisition system to deal effectively with the unprecedented changes occurring in both the commercial marketplace and within the government itself. Unabated technological change and competitive market forces are producing a dramatically transformed marketplace, one in which traditional market boundaries and relationships are disappearing and new ways of doing business are being developed at a challenging pace. Within the Federal Government, agencies are changing their roles and depend to an increasing degree on the private sector and State and local government to provide essential services.

To cope with and, in fact, to help lead these changes, the Federal acquisition system must implement a new series of reforms that buildupon the encouraging foundation established by the reforms of the 1990's. To this end, the PRT believes that the following actions must be taken, and we have about five recommendations in the paper.

First, to redefine the scope and vision of Federal acquisition. For example, the present definition of acquisition in the FAR is to "acquire by contract." It connotes, ignoring other means of obtaining goods and services through cooperative agreements, other transactions, even grants. We recommend broadening the definition to include the other methods of obtaining goods and services and to include the whole acquisition process, from requirement setting to life cycle support of capital goods. Also, we recommend, in this context, by law designating the senior procurement executive in each agency as the chief acquisition officer, in effect, the senior business manager.

Second, encourage results-oriented long-term relationships between the government and its suppliers, for example, contracting for products and services, such as producing, installing, and supporting elements of the National Air Space Management System over a 10 to 15-year period.

Third, adopt policies calling for government information technology architecture and systems that are fully capable of interfacing with each other and with those of industry. For example, a government-industry agreed technical intranet/internet architecture for contracts and grants process formats.

Fourthly, adopt a business-based approach to cost accounting, budgeting, and acquisition policy guidance. For example, multi-year budgets, greater reprogramming authority, moving Federal cost accounting standards closer to generally accepted accounting principles used in the private sector.

And fifth, place greater reliance on commercial industrial capabilities. For example, agencies would use private sector R&D capabilities unless there is no commercial capability rather than compete with those commercial capabilities.

These new reforms will better prepare the Federal acquisition system to contribute to lower acquisition costs, rapid and more informed decisionmaking, higher quality products and services, efficient life cycle sustainment, and integrity for the taxpayer. As with the successful reforms in the 1990's, implementing these additional reforms will be a challenging task, one that will require the full commitment, advocacy, and partnership of Congress and the executive branch.

To provide a foundation for that partnership and to serve as an implementation mechanism for these reforms, the PRT recommends that Congress enact legislation to direct the executive branch to establish a high-level panel similar to the DOD Acquisition Law Advisory Panel of the early 1990's, otherwise known as a Section 800 panel, to identify the specific actions required to implement the recommendations in the paper.

In closing, while the millennial changes discussed in this paper are not tied to the turning of the numbers on the calendar, the

changes are as critical as the millennium was inevitable. The time to start is now.

Thank you, Chairman Horn, for the opportunity to offer the Procurement Round Table's recommendations.

Mr. HORN. Thank you very much. We appreciate your experience being brought here.

[The prepared statement of General Tuttle follows:]

TESTIMONY

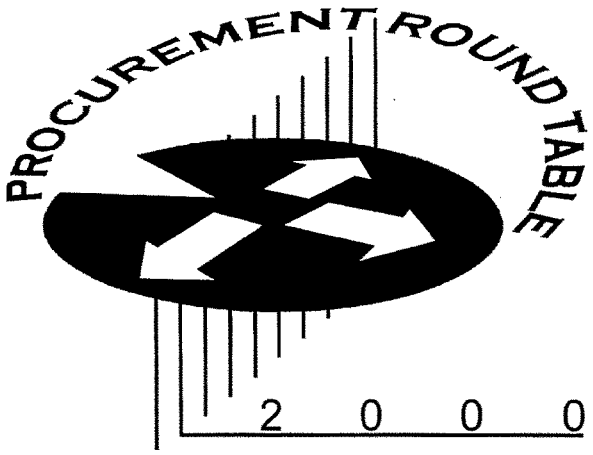
TO

THE SUBCOMMITTEE ON

GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY

WILLIAM G.T. TUTTLE, JR.
DIRECTOR, PROCUREMENT ROUND TABLE

MARCH 16, 2000



THE FEDERAL ACQUISITION SYSTEM

Transitioning to the 21st Century

THE FEDERAL ACQUISITION SYSTEM

TRANSITIONING TO THE 21ST CENTURY

December 1999

The Procurement Round Table (PRT) presents this paper as a part of its continuing series of publications and seminars targeted at helping to improve the Federal acquisition process. The PRT is a nonprofit organization chartered in 1984 by former Federal acquisition officials concerned about the economy, efficiency, and effectiveness of the Federal acquisition system. Its 39 Directors are private citizens who are serving pro bono *with the objective of advising and assisting the government in making improvements in Federal acquisition. The PRT chairman is Elmer B. Staats, former Comptroller General of the United States, with Frank Horton, former Member of Congress, serving as acting chairman when Mr. Staats is absent.*

EXECUTIVE SUMMARY

Annually, the Federal government acquires roughly $200 billion in goods and services for the government. The PRT's objective with this paper is to stimulate continuing reforms in the process by which the government obtains these goods and services---reforms that will help prepare the critical Federal acquisition system to deal effectively with the unprecedented changes occurring in both the external and internal business environments. Externally, unabated technological change and other business forces are producing a dramatically transformed marketplace, one in which traditional market boundaries are disappearing and new ways of doing business are being developed at a challenging pace. Internally, the Federal government is taking on a new role, a role that sees government agencies depending to an increasing degree on the private sector to provide essential services.

To cope with---and, in fact, to help lead—these changes, the Federal acquisition system must implement a new series of reforms that build upon the encouraging foundation established by the reforms of the 1990s. To this end, the PRT believes that the following actions must be taken:

- Redefine the scope and vision of Federal acquisition.
- Encourage results-oriented, long-term relationships between the government and its suppliers.
- Adopt policies calling for government information technology architecture and systems that are fully capable of interfacing with each other and with those of industry.
- Adopt a business-based approach to cost accounting, budgeting, and policy guidance.
- Place greater reliance on commercial industrial capabilities.

These new reforms will better prepare the Federal acquisition system to contribute to lower acquisition costs, rapid and more informed decision-making, higher-quality products and services, and efficient life-cycle sustainment. As with the successful reforms of the 1990s, implementing these additional reforms will be a challenging task, one that will require the full commitment, advocacy, and partnership of Congress and the Executive Branch. To provide a foundation for that partnership and to serve as an implementation mechanism for these reforms, the PRT recommends that Congress enact legislation to direct the Executive Branch to establish a high-level panel, similar to the "Section 800 Panel" of the early 1990s, to identify the specific actions required to implement the recommendations in this paper.

While the millennial changes discussed in this paper are not tied to the turning of the numbers on the calendar, the changes are as critical as the millennium is inevitable. The time to start is now.

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SECTION I
MAJOR ACQUISITION REFORMS OF THE 1990S—A PLATFORM FOR TRANSITION

Long-term commitment ... is required of any management that seeks transformation. The timid and the fainthearted, and people that expect quick results are doomed to disappointment.

— W. Edwards Deming

As the new millennium approaches, the Federal acquisition system must be credited with having taken a mighty leap forward from where it was 10 years ago.

In the 1990s, Federal leaders recognized the critical need for major acquisition reform. A host of Federal acquisition reforms, both agency-initiated and legislated, combined to produce and sustain a government buying machine that is far leaner, quicker, more creative, and more cost-effective than ever before. Primarily focused inward, these reforms are bringing about a major transformation of a government acquisition system that was mired in regulations and hindered by a morass of agency-unique practices, systems, and requirements.

Some of the major acquisition reforms of the 1990s are:

- The Federal Acquisition Streamlining Act (FASA)[1] of 1994 mandates the acquisition of commercial items, and in a manner similar to that used by commercial businesses. As implemented in the Federal Acquisition Regulation (FAR), FASA allows government contracting officers to exercise a greater degree of business judgment when acquiring these items. Other FASA provisions also allow for faster response times by the procurement system and encourage the use of government micro-purchase credit cards.

- FASA and the Clinger-Cohen Act of 1996 further broaden the exemptions from cost or pricing data requirements when acquiring commercial items and also authorize the Office of Federal Procurement Policy (OFPP) to exempt commercially available items from almost all government-unique procurement laws and policies.

- The Government Performance and Results Act (GPRA) of 1993 establishes a framework for improved accountability and performance measurement in Federal agencies.

- Expanded use is being made of a wide range of streamlined, more user-friendly contracting approaches. These include the increased use of contracting techniques such as Government-Wide Agency Contracts (GWAC) and Multiple Award Schedules (MAS), greater reliance on past performance and best value as selection criteria, higher dollar thresholds for simplified acquisitions, and continued reduction in the time required to transition from requirements identification to contracting.

- Acquisition executives in a number of agencies are embracing a broader view of acquisition, one that encompasses a wide range of business-related tasks beyond the contracting function.

- Many agencies are making strides in improving training and professional development programs for their acquisition workforces, and Congress has supported these efforts with enabling legislation.

- More widespread use is being made of integrated product/process teams, bringing together early in the life cycle several disciplines critical to successful and cost-effective program completion.

- Agencies are making increasing use of partnership arrangements between government and industry in order to enhance the performance of the Federal acquisition system.

- And, most strikingly, Congress has freed selected agencies from certain statutory restrictions in acquiring goods and services.

The acquisition reforms of the 1990s have removed many long-standing barriers to effective operation of the Federal acquisition system. Even more important for the future is the fact that the reforms of the 1990s have demonstrated that the leaders of the Federal acquisition system are willing and able to accept and adopt major change---and to lead change.

SECTION II
THE NEW ENVIRONMENT—MARKETPLACE TRANSFORMATION AND THE CHANGING ROLE OF THE FEDERAL GOVERNMENT

In the next decade, the opportunities and challenges for the Federal acquisition system will come predominantly from two sources, one external to the Federal government and one internal. Externally, the marketplace in which Federal agencies operate is undergoing a major, lasting transformation. Internally, the role of the Federal government is changing just as dramatically. The success of the Federal acquisition system in the next decade will hinge on its ability to deal with these factors—by maximizing the opportunities of the former and helping to shape the latter.

MARKETPLACE TRANSFORMATION

The advent of new technology and new products creates the potential for dynamic competition—competition between and among technologies and industries, each seeking to find the best way of serving customers' needs. Dynamic competition ... creates winners and losers on a massive scale.

—Alvin Toffler et. al.

Ever-expanding technological capabilities are resulting in revolutionary changes in the shape of the marketplace for goods and services. Because of technology, the boundaries between markets are becoming less distinct with each passing day, and in some cases are completely disappearing. E-commerce, hardly a factor to be reckoned with a decade ago, is dramatically changing the landscape for buyers and sellers.

As evidence of the impact of technological change, just consider:

- It took 100 years to shift from an agricultural to an industrial society, but only two decades to shift from an industrial society to the information society. Today we have moved beyond the information age to an information revolution.
- Just six years ago, the Internet was still considered an oddity. Only three million Americans were regular users. This year, worldwide Internet users are expected to number nearly 150 million. During the next 10 years, it is estimated that over 90% of daily interaction between customers and suppliers will take place over the Internet. Business-to-business e-commerce will grow nearly thirtyfold in the next few years, from $43 billion last year to more than $1.3 trillion by 2003.
- Data processing capability is increasing tenfold every 5 years, and the processing speed of silicon chips doubles every 18 months.
- Supply chain management is becoming increasingly a process of instantaneously moving information rather than physical product.
- The private sector has experienced a productivity revolution, making more efficient use of technological opportunities than has the public sector.

There is no way to avoid it: technology—the ability to use it and the ability to keep pace with it—will be a critical success factor in the early 21st century. Technological advances will cause the millennial marketplace to become increasingly global.

In addition to the changes brought about by technology, the marketplace is being significantly impacted by other business factors, with two worthy of particular note. First is the continuing trend toward corporate mergers and acquisitions, which has resulted in a smaller number of larger companies in the marketplace. The most striking example is in the Defense industry, where 50+ major firms that existed in the 1980s have shrunk to 5. Second is the ever-increasing importance of the international market, as political boundaries among markets are becoming less meaningful with each passing year.

The Federal acquisition system must be able to operate effectively in this new, global marketplace.

THE CHANGING ROLE OF THE FEDERAL GOVERNMENT[2]

... traditional governments are so preoccupied with rowing that they forget to steer.
— David Osborne and Ted Gaebler

Over the past several decades, both the Legislative and Executive Branches recognized that the Federal government had grown too large and that changes were needed in the way government functions are performed. This resulted in significant downsizing for most agencies in the early 1990s, which in turn caused executives to implement major changes in the way they do business. When staffs and budgets were reduced, agency executives had to make difficult decisions to determine what work they would do and how they would get it done. The terms "core competencies" and "outsourcing" came into vogue, and increasingly agencies are identifying the essential tasks they must accomplish and, of these, which must be performed in-house. The remaining tasks—primarily "operations"—are being devolved to the states or have been outsourced.

As a result, the Federal acquisition system is seeing dramatic changes in the nature of its business. These include:

- Contracting for products no longer represents the lion's share of government contract dollars, as more than 50% of these funds are now spent on services.
- Agencies have outsourced many functions that industry is better qualified to perform, deriving the benefits of the competitive marketplace and freeing their workforces to focus on core missions.
- Similarly, some agencies have become suppliers of common services (such as payroll and personnel processing) to other agencies, resulting in greater efficiency and reduced cost for customers and the creation of new core competencies for suppliers.
- Agencies have improved response times for the end-users of many products and services by removing government middlemen from the supply chain. Agencies thus have shifted their energies from managing supplies and services to managing suppliers and service providers.

Another byproduct of government downsizing has been a reduction in Federal acquisition dollars. As funding levels have fallen in some significant business areas—most notably the Defense and Aerospace industries—the Federal government has become a less dominant force in the marketplace than it once

was. Some suppliers in these fields have sought and found other customers, making themselves less dependent on Federal customers for their success and continued growth.

IMPLICATIONS FOR THE FEDERAL ACQUISITION SYSTEM

What do these factors bode for the Federal acquisition system? The following are among the more significant implications for the acquisition community.

- The rapid pace of change in the business environment demands that government agencies demonstrate agility and rapid adaptability to change. Private sector organizations that do not react quickly enough to the changing marketplace face bottom-line defeat on Wall Street. While Federal organizations do not operate with the same kind of bottom-line perspective, those that fail to deal with the changing nature of the marketplace will find themselves ill-equipped to accomplish their missions or, at the very least, will find themselves unable to make efficient use of their ever-shrinking resources.
- The boundaries between the public and private sectors are becoming increasingly blurred, requiring redefinition of the relationships between the government and the private sector.
- The high number of mergers and acquisitions, which reduces the number of potential suppliers available in many areas, raises questions about the nature of competition and of the relationships between the government and its suppliers.
- There is a new economic order emerging that cannot be ignored or reversed. For the Federal acquisition system, some of the more challenging aspects of this new millennial marketplace will be
  - declining Federal market clout,
  - global acquisition sources and a global industrial base,
  - increased government dependence on commercial research and development (R&D) and technology,
  - market economies that demand use of standard electronic interfaces and commercial practices, and
  - reduced competition (or an entire redefinition of "competition").
- Because the changing role of government has brought fundamental changes to the nature of acquisition work, the acquisition workforce must also change to fill its new role. The workforce will need new skills and might need to adopt a new mindset to enable it to contribute effectively in the changing environment of the 21st century.

Federal readiness for the transformations occurring in the marketplace will require change: change in the entrenched habits of both Congress and the Executive Branch; change in public policies; change in our cultural reliance on controls, rather than on performance and creativity; and process and organizational changes that will make government more compatible with its commercial suppliers.

To deal with the new marketplace and to help shape the new role of government, managers of the Federal acquisition system cannot afford to make marginal improvements to processes that need major overhaul. Officials must be prepared to challenge long-established requirements—whether agency-unique or government-wide—that inhibit Federal agencies' ability to operate effectively in the 21st century marketplace.

However, the PRT also acknowledges that the Federal government has been and always will be different from the commercial sector. Thus, while striving to make the Federal acquisition system more like its commercial counterpart, the PRT continues to recognize the unique constraints that are imposed on public-sector organizations. No matter how commercial, competitive, or cost-effective the Federal acquisition system becomes, it ultimately will still be governed by public policies—policies that are driven not only by economic objectives but also by social and political considerations. Despite these limitations, the Federal acquisition system must remain properly focused on mission accomplishment.

Federal agencies use a number of types of agreements with various labels for the acquisition of goods or services in addition to the traditional acquisition covered by the FAR. The most common of these are grants, cooperative agreements, and other transactions, but this is by no means the complete list of agreements used by the Federal government to obtain goods and services. These other agreements, sometimes referred to as "business arrangements," and the manner in which they are used are also affected by the new environment described in this section. Recommendations 2 through 5 in the next section apply to these other business arrangements much as they do to traditional acquisition vehicles.

SECTION III
RECOMMENDATIONS

To enable the Federal acquisition system to perform effectively in the challenging environment of the 21st century, the PRT recommends the following actions as the most critical for Legislative and Executive Branch attention:

1. Redefine the scope and vision of Federal acquisition.
2. Encourage results-oriented, long-term relationships between the government and its suppliers.
3. Adopt policies calling for government information technology (IT) architecture and systems that are fully capable of interfacing with each other and with those of industry.
4. Adopt a business-based approach to cost accounting, budgeting, and policy guidance.
5. Place greater reliance on commercial industrial capabilities.

RECOMMENDATION 1: REDEFINE THE SCOPE AND VISION OF FEDERAL ACQUISITION[3]

In the 1990s, many private sector firms successfully transformed themselves to meet new market realities. They began by first asking a simple question: What is our essential business or function? The Federal acquisition community must do the same thing. In the past year, procurement executives from most agencies have reached a consensus that Federal acquisition should be viewed as being broader than just contract award and administration.

The FAR currently defines acquisition as follows:

> *Acquisition means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.*

To enable the acquisition community to identify its proper role within the government, and to provide a foundation for the other actions recommended here, a new definition of acquisition should be adopted. The new definition should use the FAR definition as a point of departure and reflect the following modifications:

- *Broaden the scope of acquisition to include everything from requirements determination to life-cycle sustainment and disposal.* This broader, "cradle to grave" scope is similar to the

way the Department of Defense (DoD) views acquisition and has helped DoD improve its acquisition process by giving managers a systemic view of the process rather than the isolated perspective limited to the contracting function.

- *Omit the reference to purchases and leases.* This phrase is too limiting. In the future, the Federal acquisition system must be willing to consider new and different arrangements beyond the traditional ones.

- *Omit the references to appropriated funds and construction.* The reference to appropriated funds is an unnecessary constraint, since the system should also deal with acquiring goods and services using other funding sources, such as government nonappropriated funds or "share-in-savings" type efforts. And the reference to construction is an unnecessary amplification of the all-inclusive term, "goods and services."

The following proposed new definition incorporates all these changes:

> *Acquisition is the process for obtaining goods or services by and for the use of the Federal government. Acquisition includes the determination of agency needs; market analysis; the description of requirements to satisfy agency needs; research and development; relevant planning; technology evaluation; all functions related to solicitation and selection of sources, contract award, financing, performance, and administration; life-cycle sustainment; and disposal.*

An agreed-upon definition will

- create, among agency leaders, an expectation as to what their acquisition organizations should do;

- facilitate continuing government-wide discussion of issues and improvement opportunities, and a sharing of lessons learned;

- enable the improvement of professional development and training programs that can more readily support the entire community; and

- enhance workforce professionalism and promotion opportunities.

Closely allied to the redefinition of acquisition is the need to establish a new "vision" for the Federal acquisition system. A vision statement provides a sense of direction by describing how things will be in the future if goals, objectives, and improvement initiatives are achieved. With a revised vision as a target to steer toward, the acquisition community will be better equipped to determine how to deal with future changes that arise.

The current vision for the Federal acquisition system is published in the FAR:

> *The vision for the Federal acquisition system is to deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives. Participants in the acquisition process should work together as a team and should be empowered to make decisions within their area [*sic*] of responsibility.*

The PRT believes that this vision statement implies a narrow definition of acquisition, one that is limited to contract award and administration. It is recommended that as part of the actions taken to embrace the proposed new definition of acquisition, agencies should simultaneously develop a more robust vision statement to support the adoption of specific initiatives and programs for improving the Federal acquisition system. The Procurement Executive Council (PEC), which has already developed a vision for the acquisition workforce, should be asked to assist. This revised vision should include adoption of commercial practices to the extent practicable.

When a broad definition of the acquisition function has been established, action should be initiated to redesignate agency Senior Procurement Executives as Chief Acquisition Officers (CAO) and to recognize this in a statute similar to the laws that established the Chief Information Officer and Chief Financial Officer positions. This new legislation should prescribe that the CAO report to the agency head and participate in executive decision-making.

Part of this effort should be a redefinition of the role of the contracting officer. The skills associated with the Federal contracting specialist, identified by the 1102 occupational series, are too narrow and fail to recognize the importance of contracting in the overall acquisition process. To an ever-increasing degree, agencies are using contracting officers as members of multi-functional teams that are formed early in the life cycle of major projects. This early and sustained involvement enables the contracting officer to take on an evolving role that is sometimes described as "business manager," indicating the application of judgment-based skills beyond those related to procurement. This is a positive step and should be built upon across the government.

Improved training and professional development programs for the acquisition workforce must continue. Training should address a wide range of skills that will enable the workforce to perform effectively in their newly defined and broader role. Acquisition officials need the training to step out into the marketplace and compete on an equal footing. The government must be able to alert the private sector to its market needs. It must conduct market analysis. It must welcome vendor participation in preparing specifications and defining statements of work. These new skills require training and, in some cases, also require that new authorities be given to acquisition officials. In addition, professional development programs, to include interagency and interdisciplinary programs, exchange programs with industry, and agency-wide mentoring programs, should be encouraged throughout government.

RECOMMENDATION 2: ENCOURAGE RESULTS-ORIENTED, LONG-TERM RELATIONSHIPS BETWEEN THE GOVERNMENT AND ITS SUPPLIERS

To capitalize on the changing role of government, in which industry is being increasingly relied upon to provide services that previously were performed in-house, agencies should change the way they approach relationships with their suppliers. The most effective and efficient way to handle a contractual arrangement might very well be a long-term relationship that does not include frequent recompetitions. Included in these long-term relationships should be the concept of partnerships between government and industry—an environment in which both parties can function in a cooperative manner and in which industry delivers goods and services that contribute to agency goals and objectives. Agencies should be encouraged to think in these terms, and any existing policies that stand in the way of such relationships must be revised or eliminated.

The government is already making strides in this area, as evidenced by the 5-year and 15-year service contracts that some agencies are using. These approaches need to be expanded throughout the government.

A key element in making this recommendation work will be to reconsider what is meant by "full and open" competition. In recent years several initiatives, such as GWACs and MAS, have enabled agencies to use greatly simplified contracting procedures without sacrificing the precepts of full and open competition. The PRT believes that similar procedures can and should be adopted to allow agencies to establish effective, efficient, long-term relationships with suppliers.

The realities of the new millennial marketplace may require the acquisition community to redefine the entire concept of competition—what it is and how to achieve it. Globalization is impacting Federal practices—such as industrial base policies and export controls. Old concepts and traditional Federal practices may have little meaning as the marketplace transforms. The Federal government will not draw on the best suppliers unless it adopts policies that capitalize on the capabilities of the global marketplace.

RECOMMENDATION 3: ADOPT POLICIES CALLING FOR GOVERNMENT IT ARCHITECTURE AND SYSTEMS THAT ARE FULLY CAPABLE OF INTERFACING WITH EACH OTHER AND WITH THOSE OF INDUSTRY

The benefits of technology are not without cost. The technological revolution provides not only a steady stream of increasing capabilities and possibilities, but also the challenge of having to operate incompatible software on incompatible platforms across networks that might not be able to communicate effectively with each other.

These challenges must be overcome, because the key to integration within the Federal acquisition community and with government's commercial partners is an integrated information system.

Federal government architecture and systems need the ability to interface with one another and with those of industry, and policies must be established that will move the government in this direction. The acquisition community must make every effort to:

- Get rid of, and prohibit the future development of, any agency-unique electronic interfaces or systems requirements.
- Standardize government computer formats and languages so that potential contractors do not need multiple systems.
- Design and deploy new systems in a way that avoids costly generational incrementalism as technology changes. Do what makes sense for the future, not what is required to preserve traditional practices and legacy systems.
- Adopt a joint technical Inter/Intranet-based architecture with the commercial sector. Use technology to customize Federal contract formats to meet a flexible array of contracting methodologies. Adopt the principle: all commercial suppliers, small and large, can communicate in a standard manner with the Federal government.

With a common architecture in place, technology should be leveraged to generate ever-increasing capabilities. The following are a few of the paths that should be pursued:

- While recognizing that some hard copy documents will still be required, continue to work toward the goal of an Inter/Intranet-based, paperless procurement process, to include solicitations, proposals, evaluations, "written and oral" discussions, awards, and debriefings.
- Create Inter/Intranet-based applications that enable the government and contractors to mutually develop procurement requirements documents (such as statements of work) and all of the up-front aspects of acquisition (with appropriate safeguards on security).
- Maximize the use of micro-purchase technologies. Establish processes that will automatically link such technologies into financial systems, with security controls such as traceable digital signatures.

RECOMMENDATION 4: ADOPT A BUSINESS-BASED APPROACH TO COST ACCOUNTING, BUDGETING, AND POLICY GUIDANCE

To be effective participants in the new marketplace, Federal agencies must conduct acquisition in a more business-like manner. The Federal acquisition system, and other systems (such as budgeting) with which it interfaces, have to be redesigned to give managers the flexibility and tools to deal with their changing environment, and must not overly restrict or prescribe how they are to perform.

By working with their colleagues in the financial management community, acquisition executives must strive to eliminate any Federal-unique budgeting and cost accounting policies and practices that unnecessarily complicate the ability of agencies to deal with the private sector. Similarly, they must focus inward to eliminate contracting policies and practices that inhibit business-like relationships with suppliers. To effectively integrate disparate Federal acquisition practices and maximize buying power, the government must use commercial practices and interfaces that mirror and respond to private sector changes.

COST ACCOUNTING

While many firms will continue to do business with the government in spite of the requirements imposed by Federal Cost Accounting Standards (CAS), there remains a concern that some firms shy away from government business because of CAS requirements. Further, some observers believe that the firms most likely to stay out of the Federal marketplace are those with exceptional technological capabilities. To address these concerns, Congress has recently

- raised the dollar thresholds that trigger CAS requirements to more reasonable levels;
- exempted firm, fixed-price contracts from CAS when the government does not obtain certified cost or pricing data; and
- given contracting agencies the authority to waive CAS requirements without the current cumbersome review process.

The PRT applauds these changes, and further recommends that (a) CAS dollar thresholds be indexed to ensure that they increase appropriately over time and (b) CAS rules and requirements be brought more in line with commercial practices.

BUDGETING

Program instability—that is, the disruption to programs that is caused by frequent changes in funding levels due to external factors—is one of the most difficult challenges that program managers have to contend with. One of the major causes of instability is the government's budget system, which appropriates money one year at a time and gives agencies only limited ability to transfer money between accounts during the year. To help Federal agencies and private industry better manage programs, three actions should be taken. First, agencies should make greater use of multiyear procurements.[4] Second, Congress should adopt procedures that provide more stable funding on a program-by-program basis. These procedures could include a multiyear budget process.[5] And third, agencies should be given greater reprogramming authority so that they can move funds among programs during the year to deal with unanticipated problems and opportunities.

POLICY GUIDANCE

In the future, the acquisition process should have fewer detailed laws and regulations, and should instead be guided by broad policy statements. Guidance documents should focus on *what* is to be accomplished in support of National or agency goals and objectives, without going into great detail regarding *how*.

The acquisition community should identify existing statutes, agency regulations, and other directives that unnecessarily prescribe how the job is to be done. Proposals for changing these documents to make them fit the "what, not how" model should be developed, and then presented to the owning organizations for action. Recognizing that this will be a difficult task in some agencies and perhaps more so in dealing with Congress, the team that conducts this review should consist of representatives from all the concerned stakeholders, including the organizations that published the overly prescriptive guidance.

The PRT recommends a "zero-based" approach to this effort: start with a blank sheet and add only what can be thoroughly justified. The rule for scrubbing current policy documents should be simple: consistent with the responsibilities of government to have a fair and open acquisition process, eliminate and/or revise any guidance or policy that inhibits leveraging new information and R&D technology or is incompatible with commercial practices. In the early years of the 21st century, the removal of overly prescriptive policy guidance will be a critical element in enabling the Federal acquisition system to operate effectively. Let the government govern, not micro-manage.

Over the past decade, Congress has recognized that existing procurement statutes are unnecessarily cumbersome and restrictive. It adopted a majority of the recommendations made in 1993 by the DoD Acquisition Law Advisory Panel, and in addition has given selected agencies the authority to contract outside the purview of statutes. Such authority was granted many years ago to the United States Postal Service and, more recently, to the Federal Aviation Administration and the Department of Veterans Affairs. In addition, agencies were given broad "other transactions" authority to procure various goods and services outside the established statutes.

These grants of authority are a clear indication that the prevailing laws are in need of further overhaul. Therefore, a thorough review should be conducted of procurement statutes, and a package of specific

legislative proposals should be developed to address the provisions that place unnecessary constraints on agencies..

In the meantime, agencies should work with each other and with the General Services Administration (GSA) to expand the use of flexible, long-term government-wide contracts, such as GWACs and MAS. Contractual arrangements should shift from the existing vertical structure of multiple use/single contractors to a horizontal structure allowing multiple items to be purchased from a selection of contractors.

RECOMMENDATION 5: PLACE GREATER RELIANCE ON COMMERCIAL INDUSTRIAL CAPABILITIES

This two-part recommendation focuses on two challenges facing the Federal acquisition system: getting better leverage from R&D budgets and compressing the excessively long time required to develop and field capital items.

LEVERAGING R&D BUDGETS

Over the past several years, the budgets for most Federal agencies have, at best, held their own against inflation. In this resource-constrained environment, agency R&D budgets have not fared well, often showing a decrease in real terms from year to year. At the same time, private industry continues to demonstrate improved R&D and technological capabilities. There is no indication that either of these trends is going to reverse itself. Thus, for the first decade of the new millennium, we can expect to see an increasing percentage of our R&D effort being funded by industry rather than government.

To maintain essential R&D capabilities in the face of these realities, the available R&D resources must be applied intelligently. The following approach is needed:

- Use available private sector R&D capabilities in all cases where they are equal to or better than those of the government. Do not spend money in-house maintaining capabilities that can be reliably provided by the private sector.

- Concentrate in-house R&D resources on those technologies that are not available from the private sector or academic institutions. In addition, form agency partnerships that enable multiple agencies to benefit from a more efficient use of limited resources. For example, there are key technology areas where DoD can work with other agencies such as the National Aeronautics and Space Administration and the Department of Energy in cooperative R&D programs. The government also should consider expanding the use of cost-sharing agreements and other transaction authority arrangements.

As part of this approach, new policies and practices would have to be developed to address such issues as ensuring that (a) long-term payoff is provided to industries and firms that invest in essential technologies and (b) a dialogue is maintained to effectively communicate government's needs to industry and industry's capabilities to government.

DEVELOPMENT AND FIELDING OF CAPITAL ITEMS

For many years, the Federal acquisition system has been criticized as a process that takes far too long to define a requirement, write a development contract, develop a system, test prototypes, and get into production. Fortunately, this excessively long, unresponsive cycle is now under attack by managers who recognize that in many cases existing commercial technologies can be used, in whole or in part, to meet the government's needs in a much shorter timeframe than the traditional approach. Considerable time can be saved by capitalizing on commercial capabilities rather than demanding the acquisition of government-unique goods and services. The challenge is to develop new procurement models to acquire such items effectively.

In situations where new R&D must be undertaken because existing commercial technologies cannot satisfy government requirements, agencies should resist the temptation to move into production before the required technology has been proven. Going into production while still conducting R&D greatly increases program risk and turbulence. Thus, a premature production decision often contributes to delayed delivery of the final product rather than faster delivery.

The IT provisions of the Clinger-Cohen Act address these issues in a promising way by calling for modular contracting, share-in-savings contracting, and solutions-based contracting. This act, along with the work that DoD has done to restructure its weapons development process on a program-by-program basis, represents a good beginning. The next step is to build on this foundation and to develop the essential policy guidance that will allow further progress to be made.

SECTION IV
THE ROAD TO IMPLEMENTATION

In this paper, the PRT has recommended five major actions that will establish the platform for a new 21st century acquisition reform strategy. These recommendations will enable the government to adjust its policies and prepare its people for the technological and economic changes taking place, and to achieve the promise these changes offer for more effective government.

Adoption of these recommendations will necessitate many fundamental cultural, procedural, and organizational changes in the Federal acquisition process. To provide a mechanism for implementation, the PRT recommends that Congress enact legislation requiring the Executive Branch to establish a panel similar to the "Section 800 Panel" that was created in the early 1990s to help Congress and DoD streamline Defense-related acquisition laws. The proven success of this approach offers the best model for assuring needed changes.

This new panel, with appropriate resources and staff support, would be responsible for identifying the scope and extent of what needs to be done government-wide to implement the PRT recommendations, developing proposed implementation timelines, and suggesting performance metrics to measure progress. The panel should be required to publish its report within a year, and could then be reconvened at selected points during implementation to give government executives an independent assessment of progress and to suggest ways to further enhance the ongoing reforms.

The PRT recognizes that the creation of this panel will represent a significant undertaking for the government, an undertaking that will require the support of key players throughout the Executive and Legislative Branches. Activation of this panel will take a considerable amount of time. However, many aspects of the PRT recommendations could and should be implemented in parallel with the panel activation process. In the interim, to facilitate action on its recommendations, the PRT intends to send this paper to members of Congress, Congressional staff members, Executive Branch agency heads, senior procurement executives, industry association representatives, and senior industry executives. The PRT will encourage and participate in:

- Meetings with the PEC, to give these executives the opportunity to discuss the recommendations in detail and share their views on implementation. The scope of subsequent PEC meetings should be broadened to include agency leaders in the discussion of the recommendations and implementation approaches.

- Meetings with industry association representatives and senior industry executives to solicit their views on the recommendations and to begin identifying specific improvement opportunities.

- A parallel series of meetings with the Legislative Branch.

The expected outcome of these meetings is that key government and industry personnel will become knowledgeable advocates for the major recommendations in this paper, facilitate near-term implementation action, and support the establishment of the panel that will serve as the long-term implementation mechanism.

The challenges and opportunities of the world we face urge that we not just "break the mold," but ensure we do not develop another one. With so many players and stakeholders watching, involved in, or attempting to control or get Federal acquisition dollars, the challenge is great. Equally great responses are required; piecemeal or incremental solutions are not what is needed.

The means by which organizations obtain the goods and services needed in the new millennium will be far different than they are today. The Federal acquisition system must change to thrive and operate effectively in this new environment. Can Federal acquisition be a leader in the world marketplace of tomorrow? The Procurement Round Table believes that it can, if given the leadership and opportunities it needs.

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[1] A complete glossary appears at the end of this paper.
[2] See "Competing Federal Commercial Activities: A Critical Time for Congressional Direction," *PRT Publications*, Spring 1998, pp. 3-18.
[3] See *Capstone Proceedings of the Federal Acquisition Workforce Workshops*, published by the Logistics Management Institute, March 1999. This document can be downloaded from the Worldwide Web at http://www.lmi.org/capabilities/wk_fin/faww.htm.
[4] See "Program Stability and the Defense Budgetary Process Procurement Round Table," *PRT Publications*, Spring 1998, pp. 38-40.
[5] See "Multi-Year Budgeting Procurement Round Table," *PRT Publications*, Spring 1998, pp. 41-42.

GLOSSARY

Acquisition Law Advisory Panel	The FY91 Defense Authorization Act directed DoD to establish this panel, which came to be known as the Section 800 Panel after the portion of the Act that prescribed its creation. The panel, which included representatives from the public and private sectors, was tasked to review all laws applicable to DoD acquisition with the objective of streamlining those laws. The Panel's extensive report, *Streamlining Defense Acquisition Laws*, is recognized as one of the two key documents (the other being Vice-President Gore's *National Performance Review*) that laid the foundation for the acquisition reforms of the 1990s.
CAO	Chief Acquisition Officer This paper proposes (see page 9) that legislation be enacted to redesignate agency Senior Procurement Executives as CAOs. Such legislation, which would mirror statutes that created the positions of Chief Financial Officer and Chief Information Officer, would prescribe that CAOs are to report directly to their agency heads and that they are to participate in all executive-level decision-making.
CAS	Cost Accounting Standards CAS, which are developed by the Congressionally-established CAS Board, govern the manner or degree to which contractors apportion costs to their cost-based contracts with the government. The purpose of CAS is to provide a set of uniform and consistent accounting standards and requirements that protect the government from the risk of overpaying for goods and services.
DoD	Department of Defense
FAR	Federal Acquisition Regulation The FAR is the primary document in the Federal Acquisition Regulations System. This system, which also includes agency acquisition regulations that implement or supplement the FAR, is a series of documents that codify and publish uniform policies and procedures for acquisition by all Executive Branch agencies.
FASA	Federal Acquisition Streamlining Act of 1994 FASA simplifies and streamlines the Federal procurement process. The Act repeals or substantially modifies more than 225 provisions of law to reduce paperwork burdens, facilitate the acquisition of commercial products, enhance the use of simplified procedures for small purchases, transform the acquisition process to electronic commerce, and improve the efficiency of the laws governing the procurement of goods and services.

GPRA	Government Performance and Results Act of 1993 The objectives of GPRA are to improve program effectiveness and accountability by focusing on results, quality, and customer satisfaction; and to improve Congressional decision-making by giving Congress objective information on agency objectives, effectiveness, and efficiency. GPRA requires each Executive Branch agency to submit to Congress a five-year strategic plan that establishes outcome-related performance goals, an annual performance plan that accompanies the agency budget and identifies measurable performance improvements that the budget is intended to effect, and an annual performance report that identifies actual performance for each performance indicator established in the performance plan.
GSA	General Services Administration GSA is one of three central management agencies in the Federal government. (The Office of Personnel Management and the Office of Management and Budget are the others.) GSA provides workspace, security, furniture, equipment, supplies, tools, computers, telephones, and travel and transportation services. GSA also manages the Federal motor vehicle fleet, oversees telecommuting centers and Federal child care centers, preserves historic buildings, manages a fine arts program, and develops, advocates, and evaluates government-wide policy.
GWAC	Government-Wide Agency Contract GWACs are indefinite-delivery, indefinite-quantity, multiple-award, task order contracts that enable agencies needing services to obtain them from another Federal agency that has entered into a contract with a service provider. FASA gave these contracts explicit statutory authority. At last count, there were 28 active GWAC programs, 22 of which encompass estimated contract values in excess of $100 million each.
IT	Information Technology
MAS	Multiple Award Schedule The MAS is a program under which GSA awards contracts to multiple companies supplying comparable services and products, at varying prices. Historically, the program has not used government specifications or purchase descriptions to support the acquisition methodology. Awards are made based on commercial product descriptions. GSA will award MAS contracts to all companies that offer a commercial item falling within the generic description of the schedule, provided that prices are determined fair and reasonable. The MAS, which uses streamlined procedures that are consistent with commercial practices, increases competition and offers a wider range of choices at better prices to Federal customers.
OFPP	Office of Federal Procurement Policy OFPP is a sub-element of the Office of Management and Budget that is responsible for providing overall guidance and direction of procurement policy, and for prescribing policies, regulations, procedures, and forms to be followed by Executive Branch agencies in the area of procurement.

PEC	Procurement Executive Council The PEC is an interagency council consisting of Senior Procurement Executives from the Executive Branch, established to provide a high-level forum for monitoring and improving the Federal acquisition system.
PRT	Procurement Round Table The PRT is a nonprofit organization chartered in 1984 by former Federal acquisition officials concerned about the economy, efficiency, and effectiveness of the Federal acquisition system. Its Directors are private citizens who serve *pro bono* with the objective of advising and assisting the government in making improvements in Federal acquisition.
R&D	Research and Development
Section 800 Panel	See Acquisition Law Advisory Panel

Mr. HORN. Mr. Grant Thorpe is the senior contracts manager, TRW, on behalf of the Professional Services Council.

Mr. THORPE. Mr. Chairman, on behalf of the Professional Services Council, I would like to express our appreciation for the opportunity to testify today on the government acquisition process. I am Grant Thorpe, senior contracts manager with TRW, representing Mr. Concklin and the Professional Services Council.

The last 8 years have witnessed a dramatic transformation in the way the Federal Government buys goods and services from the private sector. It has been a deregulatory miracle. The miracle is clearly underway but has a long way to go. I recommend the following five priorities.

Removing additional regulatory burden. We still need to reduce the regulatory requirements, continue to decrease the reliance on military specifications, and reduce the need for additional representations and certifications in contract proposals. We must focus on results rather than on process and contract administration, put funding into improving the payment streams for contractor invoices, and cut the multiple reviews of invoices, ACRN accounting, and additional audits. Legitimize common sense. Increase the use of oral presentations and continue to reduce the page limits on proposals.

Fourth, maximize commercial solutions. Use more commercial off-the-shelf hardware and software, reduce the requirement for cost accounting standards application and the request for certified cost and pricing data.

And last, improve the opportunity for private industry to compete by identifying non-inherently governmental functions and privatizing them and making the public-private competitions fair to industry by leveling the playing field in the A–76 process.

How do we do this? A major way is to invest substantially in acquisition learning. Implement key elements of the reform architecture, such as performance-based service contracting, past performance, oral proposals, multiple award vehicles, best value contracting, electronic commerce, and market research. Many of those were mentioned in the prior panel.

How should we do this? Critical implementation areas include, and I just mentioned a few of them, past performance, performance-based service contracting, business process reengineering, and market research.

In the acquisition learning area, focus on web-based technologies and integrate learning programs with nationally recognized certification processes, such as the National Contract Management Association, and degree programs at colleges and universities.

Third, merge procurement and technical functions. Undertake an organizational and functional integration of the procurement and the program technical manager functions.

And last, focus on technology-driven enterprise. There is still too much emphasis on paper. All requests for proposals should be forwarded electronically and responses provided in the same medium.

We have not arrived at our ultimate goals and we must be careful of incremental reform.

Mr. Chairman, I thank you for the opportunity to express our opinions and look forward to working closely with this subcommittee and committee to achieve these aggressive objectives.

Mr. HORN. Thank you very much. We will get back to you with some questions after the next two speakers.

[The prepared statement of Mr. Concklin follows:]



TESTIMONY OF

BERT M. CONCKLIN

PROFESSIONAL SERVICES COUNCIL

BEFORE THE

HOUSE GOVERNMENT MANAGEMENT, INFORMATION AND TECHNOLOGY SUBCOMMITTEE

MARCH 16, 2000

On behalf of the Professional Services Council (PSC), I would like to express our appreciation for the opportunity to testify today on the government's acquisition process. I am Bert Concklin, president of the Professional Services Council, a national trade association providing a policy voice for the technology services industry.

PSC is the principal trade association representing the professional and technical services industry. Our sector's products are ideas, problem-solving techniques, and systems that enhance organizational performance. Primarily, these services are applications of professional, expert, and specialized knowledge in areas such as defense, space, environment, energy, accounting, education, health, international development, and others that are used to assist virtually every department and agency of the federal government, state and local governments, commercial, and international customers. Our members use research and development, information technology, program design, analysis and evaluation, and social science tools in assisting their clients. This sector performs more than $400 billion in services nationally, including more than $100 billion annually in support of the federal government.

The last eight years have witnessed a dramatic transformation in the way the federal government buys goods and services from the private sector. In the early nineties, it was not uncommon to refer to the process as acquisition reform, streamlining, fast evolution, common sense procurement, and similar descriptors. It was and is all of those things, but at the top it is nothing less than a deregulatory miracle.

Acquisition deregulation ranks among the largest and most high-impact deregulation stories of the last several decades - comparable to deregulation in the air transportation industry, banking system, and welfare reform programs. The federal government acquires about $200 Billion in services and hardware each year. The old regulatory engine, with its amazing array of non-value added processes, has been one of the most intervening, oppressive, and often arbitrary drains on this large scale activity. In its worst form, it reaches deeply into business systems and constrains management prerogatives to a degree that is hard to match even among

some of the most loathed regulatory engines such as OSHA, EPA, and key elements of education and health care.

The miracle is clearly underway but has a long way to go to fulfill its original vision and strategic objectives.

The strategic objectives of acquisition reform were shaped by a remarkable collective effort involving Congress, key activist elements within the executive branch, private sector companies and associations, the private sector bar, academia, and others. While no two "experts" on acquisition reform would come up with the same list, my retrospective list of acquisition reform priorities includes:

1. **Removing nonproductive cost** - Intuitively, everyone involved in the old system felt that there were substantial nonproductive costs in the range of 10-30 percent.

2. **Focus on results** - This notion simply means eliminating the obsessive focus on process and contract administration and substituting a primary focus on outcomes of contracted activity.

3. **Legitimizing common sense** - What this really means is conducting the government's business as though you were spending your own money, subject to statutory and very regulatory constraints.

4. **Accessing commercial solutions** - This notion derives from reformers recognition that the federal government is no longer a dominant technology leader and must redefine its approaches to accessing innovative solutions in the private sector.

5. **Communications and partnership** - This notion challenges the often brittle, inhibited, arms-length way of conducting business between buyer and seller and favors a much more engaging, intimate, fix-it-now type relationship.

6. **Continuous improvement** - While not put forward as a strategic objective, there has been a sense that acquisition reform is a continuous process. A critical and controlling factor is the inevitable five to ten year cultural change that is underway but very uneven across government.

A serious question that comes to mind when reviewing these priorities is how have we done so far? In terms of progress evaluation, if "metaphysical perfection" is ten on a scale of ten, acquisition reform is in the three to seven range for most agencies. The single biggest problem is the failure to understand and act on the imperative to invest substantially in acquisition learning - a catchall for education, training, and software-based tools needed to competently conduct business in the newly liberated environment. Absent this large front-end investment, both the understanding of the philosophical/conceptual basis is at risk, as is the ability to implement key elements of the reform architecture such as performance based service contracting, past performance, oral proposals, multiple award vehicles, best value contracting, electronic commerce, market research, and others.

The second most critical factor retarding the advance of reform is the lack of standup leadership in the executive branch. Leadership is always a difficult subject because of its inherently subjective nature, and no less here because the leadership must be forthcoming from both the federal contracting and the program management communities. To date, there has been a serious imbalance with the program management participation being passive at best. For example, something like mastering the art of developing performance based work statements for complex technology driven requirements must be a shared endeavor involving federal contract professionals and program managers.

In any attempt to evaluate the progress of deregulation, it is very important to recognize that we are now in the implementation phase of the life cycle. We have moved from the laboratory of ideas to the streets where hands on leadership and relentless attention to systems, processes, evaluation, and redirection are the success determinants.

The real question at hand is "What should we be doing from here?" The miracle of acquisition deregulation is definitely happening and can be realized in a five-year period if a crucial set of events is allowed to happen.

1. **Critical implementation areas** - Within the overall acquisition reform architecture there are certain critical areas which require substantial attention in the form of learning (see 2 below), software–based tools, and in some cases, redesign of jobs and organizational structures. The most prominent among these include past performance, performance-based service contracting, business process reengineering, market research, contract finance and audit, and integrated acquisition planning (beginning at the requirements determination phase).

2. **Acquisition learning funding** - An investment of an estimated $200 million (one tenth of one percent of annual contract spending) in acquisition learning is absolutely essential.

3. **Foster innovative leadership** - Embrace a series of strategies to stimulate and reward proactive leadership.

4. **Human capital transformation** - What was once called civil service reform must be redirected toward eliminating all vestiges of stovepipe organizations and narrowly bounded position descriptions. At the same time, the creation of performance-based employment is critical.

5. **Merger of procurement and technical functions** - Undertake an organizational and functional integration of the procurement and the program/technical manager functions. The goal would be a combined, intimate organizational relationship with common goals and definitions of success and a revolution in the job design, education, training, and professional development scenarios for procurement professionals. This revolution would reflect both the high technology and sophistication/complexity aspects of services contracting in today's

federal marketplace

6. **Reengineering** - In no way limited to the acquisition field, federal procurement must engage in an intensive program to reengineer itself and convert to a predominantly information technology-driven enterprise. There must be a conscious, thorough recognition that professional and technical services have been radically transformed in the last three decades, especially during the last five to ten years, in two fundamental respects: 1) information technology and, therefore, high technology, has permeated the majority of all professional and technical services performed for the federal government; and 2) problem solving tools/techniques/methodologies have become far more sophisticated and quality demanding, whether dealing in a science and engineering environment or a more qualitative management/organizational/social science context. In either case, the current services procurement systems and cultural attitudes toward services are woefully out-of-date and inappropriate.

On a final note, nearly all parties involved in acquisition reform efforts over the last eight years have attacked the challenge with zeal. I would caution that the most imposing threat to the successes we have made to date, and the effective attainment of the challenges that remain, is any acceptance of the notion that we have arrived at our ultimate goals.

In other words, we must remain intolerant of incrementalism. The time-honored, dreary arguments that major reform, or elements of continuing reform, will face too much cultural resistance and too many special interests creating a zero-sum game, are simply not acceptable in the contemporary world. The demands of competition, productivity, user-friendliness, best customer performance, and many other imperatives leave no room for incremental reform. While it may take three to five years to begin to achieve cut-over to a new, or radically altered, services procurement system, it is still an eminently achievable strategic goal for the federal government working in partnership with the federal contracting community.

Mr. Chairman, I thank you for the opportunity to express our opinions and look forward to working closely with this subcommittee and committee to achieve these aggressive objectives.

Mr. HORN. Mr. Gary D. Engebretson, president of the Contract Services Association. Tell us a little bit about your organization.

Mr. ENGEBRETSON. Mr. Chairman, my name is Gary Engebretson and I am president of the Contract Services Association of America [CSA]. It is the Nation's oldest and largest association of government service contractors. Now in its 35th year, CSA represents more than 330 companies that provide a wide array of services to the Federal Government as well as to numerous State and local governments.

I greatly appreciate this opportunity to share with you the views of our members on the Federal acquisition process. I have submitted a more comprehensive statement and I ask that it be inserted into the record.

Mr. HORN. I should have said at the beginning, the minute we introduce you, it is automatically in the record.

Mr. ENGEBRETSON. Thank you. I commend you for holding this hearing today. As former Representative Bill Clinger noted, "Only through the most vigorous implementation will we achieve the goal of creating a more responsive system which provides more discretion to government buyers and freedom for those who sell to them while maintaining the requisite degree of control and fairness."

Doing business with the government once meant increased costs and little flexibility. The unique systems required kept many qualified commercial firms out of the government marketplace. Then in rapid succession, we saw the enactment of the 1994 Federal Acquisition Streamlining Act and the 1996 Clinger-Cohen Act, along with the FAR Part 15 rewrite and the initiatives in the fiscal year 2000 defense bill, all aimed at developing a more functional, effective acquisition process.

It is exciting to see the contracting officials move forward to the technology to further acquisition reform by posting solicitations on the Internet and updating bidders via e-mail, but I see these laws and initiatives as only the tip of the iceberg for the overhauling of the procurement system, particularly for the services contracting arena, which is an increasingly crucial part of the government marketplace, as we heard from previous people on the panel.

CSA is the co-chair of the Acquisition Reform Working Group [ARWG], a coalition made up of industry trade associations representing both hardware and service contractors. ARWG has developed additional acquisition reform initiatives for consideration during this fiscal year. I ask that a summary of these proposals be included also in the record.

The ARWG recommendations are aimed at eliminating or at least lowering the barriers to make government business unattractive to commercial firms and inhibit greater integration of commercial and government products and services. The system is still a long way from where it needs to be. Our companies tell me they still see supposed best value competitions that end up being nothing more than thinly veiled low-cost competitions and performance-based procurements with specifically exacting requirements.

For example, why should a solicitation still require manual inspections of a pumping system when a computer monitor could provide the same information and probably even more timely and more accurate. These problems are not the result of reform. Rather,

they reflect entrenched cultures that are slowly coming to grips with a very significant change. But let us not walk away from reform in the face of these difficulties. Instead, we should face them head on together, and that means redoubling our focus on education and training.

For CSA, the training and education for acquisition work force consistently ranks as one of our membership's top issues. It is a critically important element of the reform process. Over the years, the practices and cultures of the government and commercial sectors evolved separately. Now these sectors must come together in terms of contracting and pricing and quality design and manufacturing.

We are asking a work force that is used to a rigid, almost confrontational system to embrace a system that is more open, more empowering, and possibly more risky for all concerned, and certainly more reliant on the contracting officer's business judgment rather than an established set of rules.

Culture change and institutionalization of reform initiatives through education and training will ensure that we all reap the benefits of acquisition reform. Recognizing that training is a two-way street, CSA is developing special acquisition training programs for its members, in addition to strengthening its existing programs on the Service Contract and Davis-Bacon Acts.

CSA represents a significant number of small businesses and supports programs that encourage and assist small businesses to obtain a fair share of Federal procurement opportunities. Small businesses are an important source of supply to the government. Yet, they disproportionately feel the loss of business revenue and unique burdens placed on the government's suppliers. These businesses can least afford the additional overhead costs, including the hiring of additional employees or lawyers to ensure compliance associated with doing business with the government. This is where acquisition reform truly benefits small businesses.

Finally, the issues of outsourcing and privatization are among the most prominent and important issues now facing the Federal agencies. Much of what has been accomplished in the area of acquisition reform can and must be applied to a more aggressive and comprehensive policy of competing commercial activities currently performed by government agencies.

While CSA recognizes that public-private competitions will continue to be the rule, we are concerned that such competitions ultimately disadvantage all parties. For the private sector, the playing field is not and likely never will be entirely level. Numerous factors make it extremely difficult and often impossible for industry to win a competition, especially for small businesses. Indeed, awarding the contract to the government is not even made on a basis of best value, a fundamental premise of acquisition reform.

If government agencies are to continue to compete against private offerers to provide goods or services, it is vital that such a competition be conducted on the basis of truly comparable cost accounting practices, past performance, and also best value. Until then, quality service contractors cannot trust a process that can so easily be manipulated to provide competitive advantages to what we call the in-house or most efficient organization and are increas-

ingly unwilling to participate in the A–76 process, although I will admit there are a few examples of individual commands pioneering the use of acquisition reform tools to a great advantage.

CSA strongly supports the Federal Activities Inventory Reform Act, which requires an inventory of all commercial activities within the Federal Government and allows contracting of those activities to achieve a best value for the taxpayer. It is a rational and appropriate approach toward achieving the proper balance between public and private resources.

In summary, the road to acquisition reform will be filled with rough spots and abuses and some of them quite significant, but nothing that we cannot overcome. In the words of one of our member companies, he says, "Where some people see threats and potential abuses, my optimism causes me to see opportunities for the overall procurement process."

I thank you, Mr. Chairman, for this opportunity to share our views and we will be open to any questions that you may have.

Mr. HORN. We thank you.

[The prepared statement of Mr. Engebretson follows:]

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STATEMENT OF
Gary D. Engebretson, President
Contract Services Association of America

BEFORE
House Subcommittee on
Government Management, Information and Technology

HEARING ON:
Federal Acquisition Management

March 16, 2000

Mr. Chairman, members of the subcommittee. My name is Gary Engebretson and I am the President of the Contract Services Association of America (CSA), the nation's oldest and largest association of government service contractors. Now in its 35th year, CSA represents more than 330 companies that provide a wide array of services to the Federal government, as well as numerous state and local governments.

I greatly appreciate the opportunity to be here today and to share with you our members' views on the federal acquisition process – what the recent reforms have done and where we need to go to further streamline the system. As former Representative Bill Clinger noted, "*only through the most vigorous implementation will we achieve the goal of creating a more responsive system which provides more discretion to government buyers and freedom for those who sell to them while maintaining the requisite degree of control and fairness.*"

Acquisition Reform

As far back as the Revolutionary War, government purchasing had been characterized by shady practices, profiteering and kickbacks. Over the years, laws and regulations were gradually imposed to reduce such fraud and abuse – and to ensure "full and open competition."

In those more than 200 years, the federal procurement process unfortunately evolved into such a web of complicated laws and rules that doing business the "government way" meant setting up unique systems for accounting, quality assurance, production and management. The government, for the most part, became wedded to a system of procurement that was cost driven, one that rewarded firms with the cheapest prices, regardless of the quality or timeliness of their work or their performance history. It also left the government contracting officials with little room to

exercise sound business judgement, initiative or creativity. Ultimately, this system increased the cost of doing business for the government – and restrained many qualified commercial firms from contracting with the government.

Ten years ago, there was little urgency or even a perceived need to reform the federal acquisition system – especially when the Department of Defense had adequate budgets and its weapons systems were essentially defense-unique. All that changed with the end of the Cold War and the tremendous advances made in the commercial sector in technology – no longer was the government on the leading edge, but rather it was the private sector, with the government lagging far behind.

In late 1994, the Federal Acquisition Streamlining Act (FASA) was signed into law. It was, as the President noted, intended to "*build the confidence of the American people in Government and to empower those people who work for the Government to make the most of their jobs and make the most of taxpayers' dollars.*"

FASA was the culmination of a two-year effort by the congressionally mandated "Section 800" panel and became a part of the overall "Reinventing Government" initiative launched by the Administration. Subsequent reform efforts followed, such as the 1996 Clinger-Cohen Act, the FAR Part 15 rewrite and the FY00 Defense Authorization Act (which included a commercial services pilot program and revisions to the Cost Accounting Standards Board). These all contributed to a more functional, effective acquisition process aimed at allowing the government to purchase goods in the **commercial** marketplace and strengthening the industrial base.

The success of these efforts can be heard in a statement from John Delane, president of Del-Jen and a CSA member. Having outgrown the protections of the small business set-aside world, John was reluctant to sacrifice his company's reputation for quality to provide simply the lowest cost (but not necessarily "best value") services to the government – an attitude that almost drove him out of business. Instead, as a result of acquisition reform initiatives – including "best value" – Del-Jen has grown and flourished.

> *A few years ago, as both the Congress and the Administration began to move toward real reform, we saw glimmers of hope. We began to hear about, and then see, reforms like best value procurement and performance based contracting that would change both the practical, and just as importantly, the philosophical foundation of federal contracting. We began to see new initiatives in which a company's past performance would play a major role in future source selections. And, perhaps most importantly, the Congress enabled, and the Administration began to implement, a system that encourages, rather than discourages, communication between customer and supplier. The efforts lead to changes that have resulted in a system that is working better than it was and, in many ways, better than we could have hoped in such a short time.*

For example, an exciting development to come out of acquisition reform is it allows companies and the government to take advantage of the great leaps in technology to make the process more streamlined – and keeping everyone enthusiastic about the innovations in the system at the same time. No longer do companies have to wait to receive the paper copy of the Commerce Business

Daily with its fine print listings of solicitations; indeed, usually if a company waited for the CBD, it was too late. Agencies now are using electronic bulletin boards and their websites to immediately post procurement solicitations electronically. A company can read it on-screen and make a quick bid or no-bid decision. It is far more efficient and certainly kills a lot less trees. And, contracting officers can update bidders instantly on pending procurements via emails. The only downside is that it is almost impossible to get phone calls answered these days; most procurement offices do not answer their phones – when a company representative does have a question and calls, he or she is never sure if the call will ever be returned. Has the procurement official moved and the voice message left in limbo? It's a small thing, but its good business to have a person answer the phone.

Oral presentations also are a positive innovation. Companies spend less of their limited bid and proposal money, it spares the government evaluation teams from having to pore over volumes of written material (again, fewer trees are killed) and allows everyone to hear/see the same thing at the same time. This is very effective and moves the process forward quickly and efficiently.

Certainly, more can still be done. We see these initiatives as only the tip of the iceberg for overhauling the procurement system. This is particularly true of the services contracting arena, which is an increasingly crucial part of the government marketplace.

CSA is the co-chair of the Acquisition Reform Working Group (ARWG), a coalition made up of industry trade associations representing both hardware and services contractors. My colleague in the Professional Services Council is a principal member of the coalition. ARWG has developed a series of additional acquisition reform legislative proposals for consideration during this fiscal year. A summary of those proposals has been submitted to the subcommittee for inclusion in the record. The ARWG recommendations are aimed at eliminating, or at least lowering, the barriers that make government business unattractive to commercial firms and inhibit greater integration of commercial and government products and services.

A few of the ARWG proposals are aimed specifically at commercial services contracting.

- We recommend broadening the available contract types to include standard **commercial-type contract vehicles**. In the commercial marketplace support is regularly acquired on a fixed rate per hour or day because the method is flexible and predictable. And, the competitive forces of the commercial marketplace ensure that quality services are provided in an efficient manner so that unnecessary days/hours are not spent. While FASA did not prohibit its use, the implementing regulations do not recognize this contract type – thus impeding the government's access to significant commercial capability.
- We support expansion of the **commercial services pilot program** enacted in the FY00 National Defense Authorization Act that allows the federal government to buy commercial services that are clearly and unequivocally stand-alone services on a commercial basis at fair and reasonable prices. Information technology services should be included in this pilot. IT services are broadly purchased in the commercial sector and, therefore, allow for product familiarity that will provide for fair and reasonable prices to be determined by the commercial marketplace.

- The **Service Contract Act**, enacted in 1965, is designed to provide basic protections to workers employed on government service contracts, particularly unskilled and semi-skilled workers. However, the Act has not been updated since the mid-1970s and now lags behind the times, inhibiting the budgetary and regulatory reform goals of the Congress. FASA raised the simplified acquisition threshold for many procurement statutes to $100,000. The same should be done to the Service Contract Act, the threshold for which has not been increased from its current level of $2500, established upon the Act's enactment in 1965. This would help alleviate some of the administrative burdens on our nation's small businesses

We believe that, if enacted, these proposals – and all the ARWG recommendations – would help bring the acquisition system into the 21st century.

Acquisition Workforce

The system is still a long way from where it needs to be. Despite the laws Congress already has passed, there remain some difficult problems. Our companies tell us they still encounter contracting activities that will not communicate, wish to isolate themselves from dialogue with contractors and consider the need to remain so structured in their approach that they cannot or will not be open to well-intentioned innovation and constructive comments from contractors. We still encounter "best value" competitions that end up being nothing more than thinly veiled "low cost" competitions; performance based procurements that specify exacting requirements; and inadequate debriefings.

For example, except for the fact that it has always been done that way, why should a solicitation require the contractor to manually inspect a pump on a monthly basis, when the contractor instead can take advantage of technology by installing a computer monitor on that pump? This monitor would provide the necessary information to the contractor, including when there might be a problem, and it would be done with enough advance warning for the contractor to order the repair parts and schedule the downtime. Shouldn't we be taking advantage of state-of-the-art tools rather than relying on the old-fashioned labor-intensive way of doing business?

These are problems NOT resulting from reform, but rather problems that reflect entrenched cultures that are slowly coming to grips with very significant change. Instead of walking away from reform in the face of these difficulties, I hope that together we will face them head-on. And that means redoubling our focus on education and training.

For CSA, the training and education of the acquisition workforce has consistently ranked as one of the top issues of concern for our membership because it is a critically important element of the reform process. Over the years, the training practices and cultures of the government and commercial sectors diverged. Now, there must be a unification of these sectors in terms of contracting, pricing, quality, performance based service contracting, design and manufacturing. We are asking a workforce that is comfortable with a rigid, almost confrontational system to embrace a system that is more open, more empowering, possibly more risky for all concerned and certainly more reliant on the contracting officer's business judgement, rather than on an established set of rules.

Their ability to implement and embrace those changes hinges on the training and assistance that accompanies it. And it hinges on the degree to which that training is based on, and communicates, a real-world understanding of the competitive commercial marketplace.

Ironically, at the same time these extensive cultural and process changes are being mandated, the acquisition workforce is being reduced without a corresponding reduction in workload required by the "old system." Moreover, fiscal support for education and training is coming under extreme budget pressure. We also may reach a crisis as talented acquisition individuals begin to retire; if not addressed, there is expected to be a gap within five years of trained and experienced high-level acquisition personnel. This must be addressed.

Before acquisition reform got fully underway, Congress did take steps to create a professional acquisition corps within the military, with the enactment of the Defense Acquisition Workforce Improvement Act (DAWIA). This followed on the finding of the Packard Commission, which reviewed the acquisition process in 1986, that there was a direct relationship between procurement reform and personnel reform. The commission said, "Whatever important changes may be made it is vitally important to enhance the quality of the defense acquisition workforce – both by attracting qualified new personnel and by improving the training and motivations of current personnel." The 1996 Clinger-Cohen Act subsequently initiated government-wide education and training requirements for the civilian agency acquisition workforce. However, implementation of these landmark laws is inconsistent.

Without a serious augmentation of resources to education and training, the gains from acquisition reform will never be fully realized. We would recommend that training and education be redefined and restructured as "continuous learning." Also, investments in new, contemporary learning systems should be front-end loaded to respond to the backlog of new policies and regulations that urgently need greater cultural understanding and further skill development. A number of desirable initiatives, such as distance learning opportunities, already have been undertaken – these and other non-traditional efforts must continue – and must be augmented by in-depth, hands-on training throughout the workforce. Outsourcing and privatization of education and training should be exploited as well.

More specifically, the agencies should develop multi-year career plans for procurement officials and establish procurement workforce standards; this would cover special qualifications, educational requirements and experience for both current and new acquisition personnel. Because of the importance of outsourcing issues, CSA recommends that procurement officials also be provided with special training in the requirements of the A-76 process. Recognizing that training is a two-way street, CSA is developing its own special acquisition training programs for its members, in addition to strengthening its existing programs on the Service Contract and Davis Bacon Acts.

"Culture change" and institutionalization of reform initiatives through education and training will ensure that we all reap the benefits of acquisition reform.

Impact on Small Business

CSA, which represents a significant number of small businesses, has long supported programs that encourage and assist small businesses (including small disadvantaged and women-owned businesses) to obtain a "fair share" of federal procurement opportunities. These businesses are important sources of supply to the government. Yet, small businesses can least of all afford to bear the additional overhead costs (including the hiring of additional employees or lawyers to ensure compliance) associated with doing business with the government. This is how acquisition reform truly benefits small companies.

FASA included many significant benefits and protections for small businesses in federal contracting, especially by removing obstacles to participation (*e.g.*, restrictive specifications and overly burdensome record-keeping and paperwork requirements). Eliminating regulatory burdens on small firms, at the federal, state and local levels, will generate competitive benefits outweighing any regulatory costs. Further increasing access to capital and addressing payment problems will greatly benefit small firms.

On the other hand, the move away from "full and open competition" to other more "efficient" systems and the increased use of government-wide contracting vehicles have led many to be concerned about decreasing participation by small businesses. I remain confident, however, that we can address these concerns without any further laws or regulations that might take us a step backward. The tools are available for small businesses to use to their advantage. For example, we should consider setting aside appropriate portions of the GWACS for small businesses or even establishing specific small business government-wide schedules or creating special e-malls dedicated to small businesses. This puts the procurement process and information technology advances at work for small businesses.

We all know that small businesses are vital to the economy. The Office of Advocacy of the Small Business Administration noted in its report, "The Third Millennium: Small Business and Entrepreneurship in the 21st Century,"

> *Traditionally, small businesses have contributed more than their share to innovation and technological advances. More important, they have often played a unique role not only in developing technologies, but also in developing and exploiting unrealized market opportunities for those technologies. And, by combining new technology and new market development initiatives, they lay the groundwork for new industries.*
>
> *The dynamic U.S. economy is reflected in its small business sector. Small firms continually start up, expand and close at rapid rates in the United States. This phenomenon allows new ideas and processes into the economy, even as unproductive ideas and processes disappear.*

Public-Private Competitions

The issues of outsourcing and privatization are among the most prominent and important issues facing the federal government. Indeed, much of what has been accomplished in the area of acquisition reform can and must now be applied to a more aggressive and comprehensive policy of competing commercial activities currently performed by government agencies. Moreover, how and where such competitions are conducted is a key acquisition reform issue.

While CSA recognizes that public-private competitions will continue to be the rule, we are concerned that such competitions ultimately disadvantage all parties. For the private sector, the playing field is not, and likely never will be, entirely level. This is primarily due to the fact that, despite several recent laws, the government does not have cost accounting systems in place to provide accurate or reliable financial data on workloads, does not have to pay taxes, and the methods by which it computes its overhead rates are not comparable with those of industry, nor does the government "pay" for infrastructure (e.g. buildings and land). In addition, the government does not face, either qualitatively or quantitatively, the same risks as a commercial contractor (*e.g.*, on issues relating to termination for default, absorption of cost overruns or potential Civil False Claims penalties).

The factors listed above make it extremely difficult and, in some cases impossible, for industry to win a competition. For the government, such competitions often result in decisions to retain work in-house because it does not appear that outsourcing represents the lowest cost to the taxpayer. However, in many such cases, the appearance is drastically different than the reality. The government's "cost" is typically based on accounting systems that simply cannot capture the real, total cost and almost always fail to provide an adequate framework for determining whether the government's "cost" is, in fact, the most efficient organization for the taxpayer (including meaningful assessments of past performance, such as those rightfully applied to the private sector). Indeed, awarding a contract to the government is not even made on the basis of "best value" – a fundamental premise of acquisition reform – but rather low cost. If government agencies are to continue to compete against private offerors to provide goods or services, it is vital that such competitions be conducted on the basis of truly comparable levels of performance, cost accounting practices, past performance and best value.

The need for comparable accounting data is implied in the *Federal Activities Inventory Reform Act* (FAIR Act) that is supported by CSA. The statute requires an inventory of all commercial activities within the Federal government and allows contracting for the performance of those activities to pursue the "best value" for the taxpayer. It requires realistic and fair cost comparisons and establishes a definition for inherently governmental functions. The FAIR Act embraces several key principles: to achieve the best deal for the taxpayer; to be fair and equitable to all interested parties; and, to be instrumental in the government's overall reinvention effort. It is a rational and appropriate approach towards achieving the proper balance of utilizing public and private resources.

In an October 1998 briefing, Deputy Secretary of Defense John Hamre stated that, "*the growing statutory and regulatory emphasis on competitive sourcing will result in escalating requirements that will be complemented by increased market research designed to uncover commercial*

sources for competitive acquisitions." In order to achieve that lofty, yet vitally important goal, we believe we must address the nature and character of public-private competition and find new ways to streamline the process while still preserving its integrity. Significant attention must be given **NOW** to the rules of engagement for these competitions. New energy and attention must be devoted to leveling the playing fields and, more importantly, to achieving reflecting the "best value" for the taxpayer.

The goal is a "level playing field" for service contractors when competing for commercial activities currently performed by the government. A number of small, but important, steps can be taken to increase fairness in the system. These include improving the source selection process; improving workload data (from agencies); standardizing the format for A-76 solicitations; holding the "Most Efficient Organization" (MEO) to the same performance levels as contractors offer; and conducting and enforcing audits of the MEO. Until then, quality service contractors cannot trust a process that can so easily be manipulated to provide competitive advantage to the in-house MEO – and are increasingly unwilling to participate in the A-76 process.

This is further exacerbated by the fact that the military services, instead of taking advantage of the opportunity for public-private competition, are searching for alternative methods to reduce infrastructure size and cost.

For the most part, as with acquisition reform in general, the use of available reform tools in public-private competitions is entirely dependent upon the individual and the command. While the Navy claims to speak "best value," it does not often practice it. For example, invariably they still operate in the traditional low-cost environment – and some of their procurements are in trouble. And the Army is not much better. The Air Force is rather a "mixed bag."

One notable Navy exception is the Navy Engineering Field Activity Northwest, which is pioneering the use of reform tools and doing some great things; they are using past performance as the discriminator it was meant to be, and "best value" is a very important overall consideration. They are taking advantage of oral proposals that allows for direct interaction with the evaluation teams. They have a more open approach to pre-solicitation dialogs through their industry forums, which are well attended and are engendering a more cooperative process.

Summary

The road to acquisition reform will be filled with rough spots and abuses, some of them quite significant – but nothing that we cannot overcome. Again, using the words of John Delane of Del-Jen, *"where some people see threats and potential abuses, my optimism causes me to see opportunities for the overall procurement process."*

Thank you for this opportunity to share my views with the subcommittee and I will be happy to answer any questions.

Gary Engebretson, President of Contract Services Association of America

(CSA), is a major trade association representing those companies that provide technical and support services to federal, state, local and foreign governments. Besides his management and lobbying responsibilities for CSA, Mr. Engebretson serves on the U.S. Chamber of Commerce's Council on Procurement Policy, and Minimum Wage Coalition, and the Policy Committee of the Council of Defense and Space Industry Association (CODSIA) and the Acquisition Reform Leadership Council, and more.

Prior to joining CSA, Mr. Engebretson served two years as President of Gary Engebretson and Associates, a firm which specialized in corporate public affairs and government procurement issues including, finance, marketing, operations and administration.

Other notable accomplishments and experience include:

- Vice President, Government Relations, for the Coastal Corporation for seven years, directing numerous programs and projects including grass-roots/third party advocacy interest group liaison, improved employee and shareholder communications, and issue management. He lobbied and worked at the federal and state level on tax, environmental, labor, and other issues impacting the energy industry.
- Account Manger at Smith and Harroff, created and directed a national public awareness program, coordinating joint ventures with a broad range of national interest groups on legislation affecting American business.
- Executive Assistant and Chief of Staff to the Republican National Committee Chairman Mary Louise Smith, advising the Chairman on financial and policy matters and implemented all policy decisions. He planned and directed the Committee's training programs, press conferences, and media coverage.
- National Manager of Federal Programs for Motorola, planning and directing the corporate grant program, educating 1,350 account executives on the grant process and working with state, county, and city governments.
- Confidential Assistant to the Administrator of the Veteran Administration, he engaged in studies and projects covering a wide range of policies and issues on behalf of the Administration. He served on committees and procurement task groups handling various assignments for the Administrator.
- Represented the PAC community; BIPAC, NAM, Public Affairs Council, National Chamber of Commerce, etc., on the NBC "Today Show" and the ABC "Phil Donohue Show".
- Planned, Managed and directed a successful grass-roots program; recognized nationally as the "American Issue Series" (1978-1984).
- Member of the 1976 "Presidential Debates" advisory board for the League of Women Voters - Washington, D.C. (1976).
- Represented the Republican National Chairman and the Republican National Committee at the "Third World Congress" held in Iran (1975).
- Candidate for Republican nomination to the U.S. Congress from the 22nd District of Texas.

ACQUISITION REFORM WORKING GROUP

Aerospace Industries Association * American Consulting Engineers Council * ACIL * American Electronics Association * Contract Services Association of America * Electronic Industries Alliance * National Defense Industrial Association * Professional Services Council * U.S. Chamber of Commerce

Statement on *Federal Acquisition Management*
Submitted for the hearing record of the
House Subcommittee on
Government Management, Information and Technology

March 16, 2000

The multi-association Acquisition Reform Working Group (ARWG) appreciates this opportunity to submit a statement for the hearing on *Federal Acquisition Management* by the House Government Reform Subcommittee on Government Management, Information and Technology.

The members of ARWG represent virtually every element of the Government contracting community – including large and small businesses, manufacturers and service companies; the member associations are listed in the statement letterhead. It was established in 1993 to coordinate an industry review and response to the report of the Acquisition Law Advisory Panel (commonly known as the Section 800 panel), which resulted in the 1994 Federal Acquisition Streamlining Act (FASA). Since that time, ARWG has been working closely with the Congress and the Federal agencies to develop new initiative and continue pushing the acquisition reform agenda forward.

Much has been accomplished in recent years to streamline the Federal acquisition system, including the enactment of FASA, the 1996 Clinger-Cohen Act and the FAR Part 15 rewrite. ARWG believes that the legislative, policy and regulatory changes that have been made, once fully implemented, will help reduce costs, enhance efficiencies and promote quality management as the Government increasingly acquires its goods and services from the commercial sector.

Certainly, we acknowledge the concerns expressed by some that too much reform too fast may overload the system and cause delays in the process of assimilating reform. Indeed, we have seen some cases where the tools of reform are not being fully or effectively used. We believe those concerns can, and should, be addressed through improved training of the acquisition workforce. ARWG emphasizes particularly the importance of a serious augmentation of resources for education and training.

Nevertheless, ARWG believes that additional changes are needed in order to achieve the degree of improvement, cost savings and comprehensive reform envisioned – and to further promote the integration of the defense and commercial industrial bases. Toward that end, ARWG has developed a number of defense-specific and government-wide legislative proposals for 2000, which are summarized in this statement. The complete package, with detailed background papers, is on file with the committee (and was submitted in early February).

INTRODUCTION

In the FY00 National Defense Authorization Act, the Congress took significant steps toward addressing a few of the issues ARWG raised last year. We greatly appreciate the action taken on these proposals and stand ready to continue to work with the Members and staff as we move forward. The issues covered in the ARWG legislative package last year that were enacted by the Congress included:

- Creation of a pilot program for commercial services
- Revision of the cost accounting standards applicability and waiver authority
- Extension of the Department of Defense mentor protégé program
- Extension of the Department of Defense comprehensive subcontracting goal program

COMMERCIAL ACQUISITIONS PRACTICES

There is almost universal agreement that the Federal government has developed a broad range of unique controls and requirements for its contractors and subcontractors over the past 50 years. The Government now is attempting to realign its purchasing processes to lower costs and gain access to new commercial technology by eliminating, or at least lowering, barriers that make Government business unattractive to commercial firms and inhibit greater integration of commercial and military production lines.

Acquisition reform efforts over the past few years have enabled major changes in the way the Federal government buys commercial items and services. As the Federal government and industry implemented these changes, it became evident that further change or clarification was necessary in order to reap the full savings in cost and efficiency envisioned by the Congress when it passed FASA and Clinger-Cohen. In the FY00 National Defense Authorization Act, the Congress took significant steps toward addressing a few of these issues.

The ARWG recommendations for 2000 cover those issues not yet addressed by Congress:

- *Authorize Additional Contract Types in FAR Part 12* – current statute allows the use of firm-fixed price or fixed price with economic price adjustment contracts for the acquisition of commercial items and services; only cost-type contracts are specifically prohibited. However, the regulations do not recognize other contract types typically used in the commercial world (*e.g.,* time-and-materials and labor-hour). T&M contracting allows for a rapid response and is administratively simpler for both the buyer and the seller. The customer only pays for the effort required, and both parties know that the services can be terminated or extended at the customer's discretion.

- *Expand Pilot Program for Commercial Services* – while FASA contained significant new language defining a commercial item, it failed to eliminate barriers to the sale of an increasingly important category of commercial services which are sold independent of a commercial product. Congress took a step toward addressing this issue last year by creating a pilot program for stand-alone commercial services; included in the program are utilities, housekeeping, education and training, and medical services. While these are certainly prime examples of stand-alone services, ARWG notes there are stronger examples of commercial services – particularly in the **information technology** arena.

- *Include "Commercial Entity" in Commercial Item Definition* – there is consensus among Government and industry that further integration of commercial and military production lines is necessary for the Government to gain access to the full range of services and products that can be obtained from a "commercial entity." Complete access to all markets will enable the Government to obtain better "best value" procurement solutions. A "commercial entity" approach was strongly recommended by the1993 Acquisition Law Advisory Panel (the so-called Section 800 Panel); however a recommended statutory definition of a "commercial entity" had not been provided at that time.

- *Prohibit Defective Pricing Remedies on Contracts for Commercial Items* – both FASA and Clinger-Cohen eliminated any requirement to conduct post-award audits of price proposal data if the contract did not involve the submission of certified cost or pricing data. Instead, the new policy is to place greater reliance on market research as an adequate evaluation for reasonableness of price and pre-award audits. However, this policy has been ignored by at least two Federal agencies (General Services Administration and the Department of Veterans Affairs). Therefore, the explicit congressional intent regarding post-award audits of commercial items, as outlined in the conference report to the Clinger-Cohen Act, should be codified.

- *Provide Statutory Exemptions for Commercial Items* – FASA and Clinger-Cohen provided exemptions from certain statutes to facilitate the acquisition of commercial items. FASA also permitted the Executive Branch to identify additional statutes, with a few exceptions, that would not apply to subcontractors on commercial item buys. Clinger-Cohen further granted the Office of Federal Procurement Policy the same authority to waive statutes for items specifically defined as "commercial-off-the-shelf items (COTS)." Limited progress in this area, however, has been made. Therefore, ARWG supports the enactment of explicit statutory exemptions for the acquisition of commercial items.

- *Revise Remedies Provisions under the Civil False Claims Act* – most Government cases brought under the Civil False Claims Act generally involve extremely technical rules of contract and regulatory interpretation. The breadth of the statute, however, allows the Department of Justice to argue that any contract nonconformance is "false," thus permitting a difference of opinion to be labeled as a false claim. ARWG believes that the CFCA should be amended to either limit the exposure of companies to the severe penalties under the Act or to establish a standard of proof appropriate to the penalties under the Act.

- *Revise Use of Commercial Leasing by the Government* – commercial leasing offers to the Government an innovative acquisition technique that is both flexible and cost-effective. By utilizing commercial leasing, the Government can achieve cost-effective modernization of equipment within the constraints of a tight near-term budget. To achieve this goal, agency heads should be provided with the authority to waive the appropriate statutes that hinder the ability of the agency to enter into commercial leasing agreements. The Office of Management and Budget (OMB) also should revise its Circular A-11 so that agencies are required to scorekeep only the current year's lease value and not any future contingent liability.

BUSINESS PROCESS STREAMLINING

There are two key goals of acquisition reform. The first is aimed at streamlining and simplifying the procurement process in order to reduce development and production cycle times as well as program costs. The second is to strengthen the technology and industrial base through increased Government access to, and use of, commercial items incorporating advanced technologies.

While recent acquisition reform legislation addressed many of the major policy barriers to achieving these goals, a few still remain. ARWG has identified a number of the major barriers to more efficient Federal purchasing, and addressed the need for making changes to current statutes in the following areas:

- *Allow Exceptional Case Waiver of Cost or Pricing Data Applicability to Subcontractors* – FASA and Clinger-Cohen Act enacted significant changes to the Truth in Negotiations Act (TINA), adding increased waiver authority for those instances where a fair and reasonable price can be established without requiring the submission of cost or pricing data. The waiver, however, does not automatically apply to subcontracts under the prime contract for which the waiver was granted. Continued imposition of costly Government requirements (such as financial and business systems necessary to meet TINA requirements) keeps commercial entities, which operate in a highly competitive market, from doing business with the Federal government.

- *Amend Domestic Source Authority* – the Section 800 panel recommended that all statutory domestic source restrictions be reduced and restated in a more comprehensive way. This was achieved in FASA, which consolidates all domestic source restrictions in one area and provides a clear framework for the Congress before enacting any additional unique source restrictions in the future. This consolidation also should include the "Berry Amendment" or Domestic Specialty Metals, which has not yet been done. Also, all commercial items and commercial components should be exempt from the Buy America and Trade Agreements Acts and the Berry Amendment. The application of these statutes to commercial items precludes Federal agencies from purchasing commercial items that are otherwise available to state and local governments and to the general public.

- *Eliminate Non-Value Added Certifications, Representations, Declarations, Statements and Other Similar Contractor Submissions* – Clinger-Cohen repealed three statutory certification requirements. It also directed the Office of Federal Procurement Policy (OFPP) and the FAR Council to eliminate all non-statutory certification requirements imposed on Government contractors, unless the agency provided justification for the continued use of the certification. Absent specific congressional direction, the elimination of non-statutory certification requirements, and other requirements that are effectively certifications, will not be fully achieved.

- *Modify Regulatory Guidance on Organizational Conflict-of-Interest Policy* – an inevitable consequence of recent industry downsizing and merger activities is an increase in organizational conflict-of-interest issues. Certainly, it is both fitting and proper for the Government to protect itself against the adverse consequences of any conflict-of-interest. However, the present regulatory guidance does not serve this

purpose in a manner that is cost effective, protective of effective competition, reflective of current economic realities, encouraging of consistency and uniformity in application, or in consonance with acquisition streamlining. ARWG believes the issue involved can be readily and easily addressed by modest revisions to existing regulatory guidance.

- *Protect Confidentiality of Award Fee Information* – if use of past performance is to prove a viable aspect of competitive source selection, it is imperative that the data employed be complete, confidential and detailed. Accessibility to such information on an indiscriminate basis will undermine the entire initiative. Therefore, further statutory clarification of releasable past performance information is needed.

- *Revise the Cost Accounting Standards Act* – the FY00 National Defense Authorization Act made significant changes to the Cost Accounting Standards statute that went a long way toward rationalizing the applicability of CAS. These are significant changes and will contribute greatly to the progress being made in acquisition reform. However, in view of time constraints, a number of issues identified in the Cost Accounting Standards Review Panel (CASBRP) report on the *Future Role of the Cost Accounting Standards Board* were not addressed. Most pressing are two relatively minor changes to the law that would have the effect of making the CAS Board the independent group originally intended.

- *Revise the "Fly America" Act* – this act requires Government agencies to use U.S. air carriers, when available, for any Government-financed international air transportation. Such requirements, as applied to Government contractors, is inconsistent with acquisition reform; also, as a result of global alliances amongst the airlines, the protection afforded to U.S. air carriers is no longer necessary. Therefore, this act should be amended to eliminate its applicability to government contractors.

- *Stabilize Defense Funding (Multi-Year Program Authority)* – the Government now is able to use commercial practices and simplified acquisition techniques, but still cannot make cost-effective procurement decisions or maintain a stable program funding baseline. Without funding reform, procurement reform cannot be completed. Use of *multiyear contracts* (whether funded with annual or multiyear funds) mitigates some short-term funding problems. Multiyear contracts allow agencies to contract for planned requirements for up to five years; such contracts also may result in lower unit costs since the contractor can build in more economical lot sizes with some assurance of recovering non-recurring costs over the life of the contract. A reduction in the uncertainty of ongoing Government business enables the contractor to build a more professional, stable workforce, thus potentially enhancing the quality of the product.

LIMITATIONS ON GLOBAL COMPETITION

The *Foreign Sales Corporation (FSC)* law helps U.S. firms compete against companies in other countries that rely more on value-added taxes than on corporate income taxes. For defense firms, however, the FSC tax incentive is reduced by 50 percent, hampering the ability of the defense sector to compete internationally. Therefore, ARWG believes that the FSC 50 percent limitation on defense products should be repealed. This position was endorsed by the Congress last year.

The *Defense Export Loan Guarantee Program (DELGP)* was initiated by the Congress in 1996, but it has inherent limitations that restricted its usefulness. ARWG has identified several changes that would result in a more effective DELG program by more closely mirroring the provisions that apply to the Export-Import Bank.

STREAMLINING SOCIO-ECONOMIC REQUIREMENTS

There are a number of statutes that focus on important socio-economic issues. Acquisition reform should seek to bring structure and coherency to these initiatives in order to promote clear goals and objectives and streamline acquisition procedures. In particular, the following statutes and programs should be addressed:

- *Improving Contracting with Small Business* – nurturing and growing our business base with small and small disadvantaged businesses is not only smart business but also a fundamental social responsibility that ARWG members takes seriously. Therefore, we are concerned over the requirement for third-party certification of all small disadvantaged businesses (SDBs) and its impact on a contractor's subcontracting goals. Many previously self-certified SDB's are disinterested, for a variety of reasons, to participate in third-party certification. If not properly certified, these SDBs cannot be counted in the achievement of industry SDB goals and, thus, may not be used by contractors – contributing to diminishing opportunities for SDBs.
- *Modify the Small Business Competitiveness Demonstration Program* – Federal agencies, in particular the military services, award some construction or maintenance contracts on an indefinite task order basis. It is common for small businesses to perform more than 75 percent of the value of the work on these contracts as subcontractors. However, certain ambiguities have arisen between the program and task order contracts that need to be resolved.
- *Repeal Mandatory Source Requirement for the Federal Prison Industries* – as a mandatory source of supply, the FPI has a virtual lock on the Federal market, even when price, quality and timeliness comparisons demonstrate that the private sector is a better supplier. This ultimately translates into a loss of business for those companies that are traditional Government suppliers. This statutory preference as a mandatory source on Federal contracts should be eliminated, and its attempts to enter the services marketplace should be curtailed.
- *Revise the Service Contract Act* – this act provides important protections for service employees but has lagged behind the times and should be updated. While FASA raised the simplified acquisition threshold for many procurement statutes to $100,000, this was not done for Service Contract Act; the SCA threshold remains at its current level of $2500 establishe upon enactment in 1965. Also, the debarment standard under the SCA should be conformed to other Federal statutes. Both these recommendations would help alleviate some of the administrative burdens on our nation's small businesses.

CONCLUSION

In conclusion, we would like to point out that acquisition reform is necessary and the "right thing" to do. These proposals, if enacted, will bring the Government's acquisition system into the 21st Century and sustain our national technology and industrial base. We look forward to working with the subcommittee to achieve this goal.

Mr. HORN. Our last panelist is Mr. Bruce E. Leinster, industry executive, Contract and Acquisition Policy, the Government Industry Sector for International Business Machines [IBM], on behalf of the Information Technology Association of America [ITAA]. We appreciate the testimony ITAA always provides us and thank you for coming.

Mr. LEINSTER. Thank you, Mr. Chairman, and I am pleased to be here today on behalf of ITAA to express our views on Federal acquisition management challenges.

While I am with IBM, I am testifying today in my capacity as chairman of ITAA's Procurement Policy Committee. ITAA's 400 corporate members represent U.S.-based firms offering software products, professional services, network-based services, and systems integration services to the private and public sector. Thus, many of our member companies are actively engaged in the Federal marketplace.

ITAA commends Chairman Horn and the subcommittee for holding this critical oversight hearing today. With the incredible pace of change in the procurement system that was caused by the Federal Acquisition Streamlining Act [FASA], and the Clinger-Cohen Act, it is most appropriate that the Congress review how these reforms are being implemented. ITAA is very enthusiastic in support of the changes brought about by these landmark bills.

The Federal acquisition process, while by no means perfect, has been greatly improved. The duration of acquisitions has been shortened dramatically. The agencies have a wider range of competitive vehicles to choose from, including governmentwide acquisition contracts, so called GWACs, and the General Services Administration's IT schedules, and the use of commercial practices is more commonplace. Also, the elimination of bid protests at the General Services Board of Contract appeals has enhanced the relationship between customers and vendors.

ITAA believes that both the use of GWACs and the GSA IT schedules now offer the Federal customers choices of IT products and services that they did not have before at competitive prices and on a timely basis.

The intense competition among the commercial vendors ensures fair prices for the government, and the length of the acquisitions as well as the cost of the acquisitions has been reduced from months to often a couple of days or weeks. The modifications introduced by the Federal Supply Service in recent years have greatly enhanced the attractiveness of the GSA schedules.

In addition and most importantly, small firms continue to enjoy a substantial share of schedule sales, not just numbers of contracts but revenue generated from those contracts. We urge the subcommittee to resist efforts to restore any of the pre-FASA Clinger-Cohen regulations. In fact, ITAA has as one of its priorities to ensure that these procurement reforms continue and that there is no rollback of the gains made by these laws. We understand, however, that there may still be some laws in implementing the goals of FASA and Clinger-Cohen, but we believe this can best be achieved by more training for the acquisition personnel, a subject that was discussed at length by the earlier panel.

Too often, the first budget cuts in Federal agencies take place in areas of education and training. This has hampered realizing the full benefits of the acquisition reforms and we encourage the subcommittee to stress the importance of this training when considering the agency budget requests.

ITAA, however, does believe that additional reforms are still needed. We urge the subcommittee to review the entire area of unique requirements for Federal vendors that do not exist in the commercial sector. Some of these issues have been included in the Acquisition Reform Working Group's statement that was referred to earlier and ITAA would like to express our support for this document.

We believe that elimination or modification of many of these provisions would continue the road of reform the subcommittee has paved. Issues like eliminating the ability of agencies to terminate leasing contracts for convenience, something not permitted in the private sector, would be offset by the agencies realizing better rates and a greater selection of finance companies.

The confusing, burdensome, and expensive requirements, and most importantly, the constraint it places on government access to IT products of the Buy America and Trade Agreement Act make the government less attractive to commercial firms. The Advance Payment Act is another requirement that flies in the face of established commercial practices. Changes in this act would again allow agencies to benefit from better prices and commercial practices. Most commercial customers, for example, sign up and pay for maintenance agreements in advance and this will allow vendors to offer more attractive services to the government.

There is not sufficient time at this hearing to detail all of these provisions and their negative impact on Federal contractors, but ITAA welcomes the opportunity to pursue them with you and your staff.

Before moving to electronic government, I would like to address three additional items that ITAA believes warrant your immediate attention. We believe that an oversight occurred in FAR Part 12 on the limitation permitting only the use of firm fixed-price contracts for the acquisition of commercial services. We strongly support the change to allow other commercial practices such as time and materials contracts for Federal customers. These are routine offerings in the commercial sector and we do not understand the rationale of prohibiting them in FAR Part 12.

Another change that could be perceived as minor but which would have a very major impact on IT vendors is the adoption of the same definition for commercial services that currently exists for commercial items. The definition of a commercial item is clear, requiring that a vendor merely demonstrate that the product has been sold or offered to the private sector for other than government purposes. The definition of a commercial service, however, is difficult to understand and subjects the proposed service to clumsy and unclear pass/fail criteria in order to determine a commercial service.

ITAA would also like to urge the subcommittee to review the antiquated practice on conflict of interest that is not found in the commercial sector. The Federal Government generally prohibits

under organizational conflict of interest provisions an IT company that designs a solution from bidding the implementation of that solution to the government. The unintended outcome of this restriction is that many of the leading IT firms will not work to develop a solution since they fear being precluded from bidding for the usually more lucrative implementation phase of the program. We urge the members to review this outmoded restriction.

ITAA's other priority is to encourage the Federal Government's move into the Internet age. It is our view that Federal agencies, despite pockets of initiative, are lagging even the State and local governments in grasping the benefits of the Internet for their constituents and customers. This subcommittee must increase its efforts to prod, push, and pull the Federal agencies to transform into an e-government. ITAA and its member companies will be glad to assist you in this undertaking.

It is common knowledge that many government IT systems are 20 to 30 years old. These systems are outdated, difficult to maintain, with insufficient written documentation remaining. While Y2K remediation permitted them to continue working into 2000, the systems were not updated to take advantage of the latest technology. The private sector is continuing to revolutionize the way it does business in the new economy by utilizing the power of electronic business to transform its operations. The Internet and network computers can improve service, lower costs, and make government services more accessible to citizens.

The fast-paced changes in technology have been accompanied by a severe shortage of trained IT professionals, as was discussed earlier. If the private sector is having trouble retaining and hiring sufficient workers, the government has an even greater challenge due to the lower pay and the lack of benefits, such as stock options, to attract these sought-after employees. The result will be that the Federal agencies will face greater challenges to move to e-business solutions without the help of the private sector. This will result in the Federal agencies sometimes willingly and sometimes reluctantly turning to the private sector for outsourcing of key functions. Short of a serious recession, we do not foresee the Federal Government having sufficient IT workers for their future needs. In fact, ITAA's CIO survey for 1999 of 35 CIOs found that within 3 years, a majority of the government's IT work force will be eligible for retirement.

The Paperwork Elimination Act offers this subcommittee a perfect vehicle for encouraging the Federal agencies' transition to an electronic government. This very brief law requires Federal agencies to transition to a paperless environment by 2003. ITAA urges you to begin tracking the agencies' plans now so that 2003 does not find us with insufficient process and the government far from meeting this ambitious goal. ITAA will be glad to discuss specific milestones and suggestions on how the agencies can best achieve this goal.

In the commercial and State and local government marketplace, we are seeing revolutionary ways of procuring e-commerce solutions that are still lacking in the Federal marketplace. We are seeing innovative funding approaches, joint ventures, transaction-based payments, value-based contracting, as well as other methods

that allow companies and government agencies to acquire new technologies with little up-front expenditures. Congress should encourage the Federal agencies to explore these innovation solutions. ITAA remains disappointed that the Clinger-Cohen pilots have not met with more success within the agencies.

There are other important issues that I did not have time to raise with you today, but ITAA has appreciated the receptivity of you and your staff to industry's concerns. We hope to continue to work with you on the subjects I mentioned today, as well as others. At the appropriate time, I will be glad to answer any questions you may have. Thank you.

Mr. HORN. Thank you very much.

[The prepared statement of Mr. Leinster follows:]

Subcommittee on Government Management,
Information, and Technology

of

Government Reform Committee

Hearing on Federal Acquisition Management

March 16, 2000

Statement by

Bruce Leinster

On Behalf of

Information Technology Association of America

STATEMENT OF BRUCE LEINSTER, IBM, BEFORE THE HOUSE SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY

MARCH 16, 2000

Chairman Horn, Members of the Subcommittee:

I am pleased to appear here today on behalf of ITAA, the Information Technology Association of America, to express our views on federal acquisition management challenges. My name is Bruce Leinster, and I am an industry executive for contract and acquisition policy, IBM Government Industry Sector, but I am testifying today in my capacity as chairman of ITAA's procurement policy committee. ITAA's 400 corporate members represent US-based firms offering software products, professional services, network-based services, and systems integration to the private and public sectors. Thus, many of our members companies are actively engaged in the federal marketplace.

ITAA commends Chairman Horn and the Subcommittee for holding this critical oversight hearing today. With the incredible pace of change in the procurement system that was caused by the Federal Acquisition Streamlining Act, better known as FASA, and the Clinger-Cohen Act, it is most appropriate that the Congress review how these reforms are being implemented. ITAA is very enthusiastic and supportive of the changes brought about by these landmark bills. The federal acquisition process, while by no means perfect, has been greatly improved. The duration of acquisitions has been shortened dramatically, the agencies have a wider range of competitive vehicles to choose from including Government-wide Acquisition Contracts (GWACs) and the General Services Administration's IT schedules, and the use of commercial practices is more commonplace. Also, the elimination of bid protests at the General Services Board of Contract Appeals (GSBCA) has enhanced the relationship between customers and vendors.

ITAA believes that both the use of GWACs and the GSA IT schedules now offer the federal customer choices of IT products and services that they did not have before at competitive prices and on a timely basis. The intense competition among the commercial vendors ensures fair prices for the government and the length of the acquisitions has been reduced from months to often a couple of days or weeks. The modifications introduced by the Federal Supply Service in recent years have greatly enhanced the attractiveness of the GSA schedules. In addition, small firms continue to enjoy a substantial share of the schedule sales. We urge the Subcommittee to resist efforts to restore the any of the pre-FASA, Clinger-Cohen regulations.

In fact, ITAA has as one of its priorities to ensure that these procurement reforms continue and that there is no rollback of the gains made by these laws. We

understand, however, that there may still be some problems in implementing the goals of FASA and Clinger-Cohen, but we believe this can best be achieved by more training for the acquisition personnel. Too often, the first budget cuts in federal agencies take place in the areas of education and training. This has hampered realizing the full benefits of the acquisition reforms and we encourage the Subcommittee to stress the importance of this training when considering the agency budget requests.

ITAA, however, does believe that additional reforms are still needed. We urge the Subcommittee to review the entire area of unique requirements for federal vendors that do not exist in the commercial sector. Some of these issues have been included in the ARWG (Acquisition Reform Working Group) statement and ITAA would like to express our support for this document. We believe that elimination or modification of many of these provisions would continue the road of reform this Subcommittee has paved. Issues like eliminating the ability of agencies to terminate leasing contracts for convenience--something not permitted in the private sector--would be offset by the agencies' realizing better rates and a greater selection of vendors. The confusing, burdensome, and expensive requirements of the Buy America and Trade Agreements Acts make the government less attractive to commercial firms. The Advanced Payment Act is another requirement that flies in the face of established commercial practices. Changes in this Act would again allow agencies to benefit from better prices and commercial practices. Most commercial customers sign up and pay for maintenance agreements in advance, and this would allow vendors to offer more attractive services to the government. There is not sufficient time at this hearing to detail all of these provisions and their negative impact on federal contractors, but ITAA welcomes an opportunity to pursue them with you and your staff.

Before moving to electronic government, I would like to address three additional items that ITAA believes warrant your immediate attention. We believe that an oversight occurred in FAR Part 12 on the limitation permitting only the use of firm-fixed price or fixed price for the acquisition of commercial products and services. We strongly support the change to allow other commercial practices such as time and materials for federal customers. These are routine offerings in the commercial sector and we do not understand the rationale of prohibiting them in FAR Part 12.

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Thank you.

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March 15, 2000

DAILY BRIEFING

DoD service contracts riddled with errors, report says

By Brian Friel
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Defense Department contracts for services are filled with errors, from bad cost estimates to weak technical reviews to a lack of competition among bidders, an inspector general audit released this week found.

The audit found errors in every one of 105 contracts reviewed. Errors are widespread because DoD acquisition professionals are overworked and don't have enough training in good contracting practices, the report said.

"As a result, cost-type contracts that placed a higher risk on the government continued without question for the same services for inordinate lengths of time—39 years in one extreme case—and there were no performance measures in use to judge efficiency and effectiveness of the services rendered," the IG report said. The audit report, "Contracts for Professional, Administrative and Management Support Services" (D-2000-100), was dated March 10.

The report of weak contracting practices comes as the Pentagon is increasing its reliance on contractors and downsizing its acquisition workforce.

From 1992 through 1999, DoD's annual purchases of services—such as administrative support—increased from $39.9 billion to $51.8 billion, the IG said. Over the same time period, the department's procurement of goods—such as aircraft—decreased from $59.8 billion to $53.5 billion. In all, DoD contracting actions worth more than $100,000 increased by 28 percent from 1990 to 1999.

Meanwhile, the department cut in half its acquisition workforce, from 460,000 in 1990 to 230,000 in 1999, according to a separate IG audit released last month (D-2000-008). The IG predicted that another 55,000 experienced procurement professionals will leave the department through attrition over the next five years.

The auditors' report listed several examples of contract mismanagement, including the following:

RELATED LINK:
Inspector General report: Contracts for Professional, Administrative, and Management Support Services (D-2000-100)

- When a contracting office identified only $5.8 million in costs on a contract that was funded with $8 million, the program office instructed the contracting office to throw the additional $2.2 million into the contract anyway. "In this case, the contracting specialist admitted the time-and-materials service portion of the contract was a 'plug-in' figure," the audit report said.
- The Army contracted with Raytheon for 39 years for engineering services related to the HAWK missile system. Auditors expected that 39 years was enough time for the Army to determine a fixed price for the contract. Instead, the Army awarded Raytheon a cost-plus-fixed-fee deal, which allows the contract to go above the expected price.
- Cost estimates attached to contracts were often unsigned, undated and offered no explanation or justification for the estimates. One National Guard Bureau project had a cost estimate of $2.2 million, which mirrored the $2.1 million proposal from a contractor. But a Defense Contract Audit Agency review of the project found that actual costs were only $1.2 million.
- The contracting staff of one office gave a technical reviewer just one day to make a technical assessment of a $9 million contract.
- One contracting officer awarded 30 task orders to companies without seeking bids from other firms. The contracting officer placed the orders to companies based on the advice of a program official.
- Instead of conducting reviews of contractor performance, procurement officials used contractor-prepared status reports as evidence of how well the contractors were doing their work.

To correct the problems, Defense Department acquisition personnel need training in service contracting, the IG report said. The department also needs to stop shuffling contracting personnel around, reduce turnover and cut employees' workloads, the audit recommended. In one case, a technical monitor was responsible for keeping track of the performance of 43 contracts worth $621 million while also preparing for 13 new contract awards valued at $115 million.

In response to the IG report, the Pentagon has formed a "rapid improvement team," a DoD spokeswoman said. By mid-April, the department will issue a new policy on service contracting, she said.

"We, as well as the military services, recognize the need for improvement in contracting for services," the spokeswoman said.

Mr. HORN. We are going to start the questioning right now. I was very interested in what this panel has said and what the earlier panel has said, and let me see if I can pull together here. As I understand the testimony, both panels have said there is a lack of training and education of the Federal acquisition work force as one of the biggest acquisition problems facing the Federal Government. Specifically in your testimony, Mr. Engebretson, you state that when contracting with the Federal Government, your member companies have encountered "best value" competitions that are nothing more than low-cost competitions and performance-based procurements that call for exacting requirements. Do you feel that the acquisition reform initiatives have outpaced the ability of the Federal work force to effectively operate in today's changing acquisition environment?

Mr. ENGEBRETSON. First of all, Mr. Chairman, it was great to hear Mr. Soloway state that they are going to have 50 percent of the DOD service contracts under performance-based contracts by 2005. That to me is a good sign that things will be moving along.

The complaints that we hear from the membership is exactly as we say it in our statement, and that is that the buyer, the contracting officer, has a tendency to not understand all the tools that are at his or her fingertips, meaning that with FASA and FARA and FAR Part 15 rewrite and all of these, there are many things that they can use to help the system and buy and purchase these services.

We think that the training is an absolute necessity, and as we heard from the previous panel and especially Mr. Soloway, that in the services area, there has not been adequate training. We are glad to hear that they are putting all of this into motion. But as I recall when we were working on FASA and we were talking to Mr. Steve Kelman and going through the processes of deciding how this should all work and working with your committee, et cetera, the comments were made that, well, it will be within the system probably 2 to 4 years, and I kind of laughed at Mr. Kelman and said it probably would be closer to 10 years, and I think that probably I am going to be a lot closer, and I might even be conservative on the amount of time.

Training is absolutely needed, and it is not only just within the government purchasers but we have to do the same thing within our industry, as well, and we do have training programs in place that we have started.

Mr. HORN. That is my next question. What practices do your member companies use to train the procurement work force that they have that the Federal Government could adopt to improve the skills of its work force. Do you want to just go with this? We will start with you, Mr. Engebretson, and then we will just get everybody to comment on it.

Mr. ENGEBRETSON. Fine. We find that the large companies, of course, do have good training programs in place and we find that by using some of these, we are gathering our programs and we are helping train these medium-sized companies and the small companies. As the previous panel pointed out, you have the medium-sized companies that once they graduate out of 8(a), they are out there floating around and they have a very difficult time staying in the

system. We think it is most important that we help and train them on the entire procurement process and the changes that have been made, and so we are making special efforts to do that.

Mr. HORN. How about you, Mr. Leinster?

Mr. LEINSTER. Yes, sir. Our company has a very vigorous training program for its acquisition negotiations. I am the senior executive for all of our public sector negotiators in IBM and we have annual training inside the company as well as outside. We encourage and sponsor participation by our employees, our negotiators, in the National Contract Management Association, which as you know is a very professional group of government and industry personnel.

We also have, as the government moves more and more toward commercial services, they also are hopefully moving toward commercial buying practices and a company like IBM has a very large commercial non-government sector. We sell many of these professional services in the private sector and we have rigorous training for our negotiators in the commercial sector and my public sector take part in these training courses, which frequently run for a week to 2 weeks at least once a year.

We also have, incidently, vigorous training on identification and utilization of small businesses.

Mr. HORN. Mr. Thorpe, any thoughts on this?

Mr. THORPE. The Professional Services Council, one training course that I have taken advantage of at TRW is the monthly Government Affairs Committee, and that is an opportunity for many members of industry to find out the latest both in the regulatory and legislative developments that are happening on the Hill and within the OFPP, DOD, and other large agencies. It consists of about a 3½ hour meeting with a rift of valuable handouts to take back and distribute throughout the company, and that has been extremely effective, in addition to PSC holding numerous breakfasts and luncheons with prominent people.

We just sat down 2 weeks ago with Bill Gormley, head of the Federal Supply Schedule for GSA, and that is an up and coming concern with GWACs and indefinite delivery type contracts. It has been very helpful for all of industry, the PSC initiatives in that area.

Mr. HORN. General Tuttle.

General TUTTLE. I think a fundamental problem is that the leadership in the agencies, including the Department of Defense, although there has been a late wake-up with DAWIA, still does not realize the importance of acquisition management to effective program execution, whether it is large systems or it is the service contracts we talk about. We will spend a year or more training a pilot to fly an airplane. It is an expensive aircraft and safety is involved, but we spend precious little time in training our acquisition specialists to do business management, a newer, much wider scope of responsibility.

We do not use case studies. You know, in most all the business schools, training people, whether at the junior level or the middle level, use case studies. Getting even the Defense Department to invest the time and effort to write case studies has been a frustrating experience for those of us that have been trying to do that for the last 15 or 20 years.

So I think it is the whole approach to acquisition education and training that really needs a major kick, and I think Dr. Gansler has been trying, but I think the barriers to it have just been huge, not to mention the cost of the commitment.

Mr. HORN. I think you are absolutely right on the case studies, and I wonder why the acquisition universities and colleges cannot do that in terms of the faculty and the students, because every course they have there, you have got people that could write a good case and leave it open as to what do you do now.

General TUTTLE. I hate to say that these are not faculties in the sense of what we have in universities. This is part of the bureaucracy. I mean, it is nine-to-five. You have got your 35 slides. You are teaching the rules. There are some occasional anecdotes that go in there, but there is no systematic effort to develop case studies.

I think you should talk perhaps to some of the people that have been on the Defense Acquisition University's advisory board. Dr. Ron Fox from Harvard has been on it for years. He knows case studies. He has written many, taught many. The statements are made that you need to do this, it just falls on deaf ears. You cannot change the culture. The culture of the education environment is as rock-hard solid as we have found in the culture in the acquisition work force itself.

Mr. HORN. Well, do they have a course on, say, Clinger-Cohen and what it means for the acquisition?

General TUTTLE. I am sure that someone has a group of slides that they bring up in all the schools, whether it is at Wright-Patterson or it is at Monterey or it is at Defense Systems Management College that talks about what the course is. The problem is, they need understanding in how to make judgments. They need to understand. They need practice in making judgments, and they will make a lot of wrong judgments in training. But you would rather not have them make the wrong judgments in their work, like the kind that you talked about this morning that the IG brought up about the C–130 propeller heater. That is when the taxpayer suffers, and the Department suffers.

So you want to go through those experiences "dry," just like a pilot goes through a simulator. They spend lots of time in simulators, but why? To prevent the dumb things happening that could have been caught in training. So I think that is where our effort really needs to be, and this committee could lend a lot of weight to that, I think, by asking the Department and insisting on not just case study use in the Defense Department, but in all the agencies. They need that kind of training.

Mr. HORN. That is a good suggestion. We will steal it from you and make it a recommendation.

General TUTTLE. Be my guest.

Mr. ENGEBRETSON. Mr. Chairman, if I could add to it, we have gone so far as to give our member companies a little plastic card such as on past performance to show what their rights are and also citing the parts of the FAR, the regulations, as to having the contractor officer—if they contest it, they can say, well, look, right here it is and let us go and look it up. We have done this and we are going to do it on some others, as well, just to protect themselves.

Mr. HORN. Well, every bit helps, I will tell you, when you are trying to educate somebody and get away from that previous culture, which is difficult.

On the first panel, we heard testimony from the Inspector General that some of the problems they identified in service contracts, and he said that he was shocked when one or more errors were identified in each of the 105 contracting actions that they studied. I am curious. You have all been through this yourself. Why do service contracts pose such a challenge for acquisition work forces?

General TUTTLE. It is difficult to write a statement of work that specifies exactly what you want done. I notice they talked about the engineering services for the Hawk missile. Having come out of the Army Materiel Command, I know a little bit about those kinds of contracts. You cannot predict from day to day what the problems are.

Now, the question is, are there some tasks that could be put in there and competed as fixed price? Probably, and I think the IG is correct on that, and I think there is some work going on. But there has not been much guidance. You are trying to get metrics together. It is a very difficult process. You should not underestimate it. It is hard to look at what outcomes are. The private sector has had the same problems. So I think it is just a matter of continuing work on trying to separate out what is knowable and what is not knowable and then putting the appropriate contract type, whether it is a T&M or a fixed price, together and then competing the relevant parts of it.

As one of my colleagues mentioned earlier, the multiple award schedules, I think, have been a big step forward in making it clear and allowing the agencies to do bite-sized task orders, where a nearer term is easier to specify. We see the improvements because I am a contractor, too—a nonprofit—and we compete for almost all of our work. So you see that the skill is getting better.

Mr. LEINSTER. Mr. Chairman, I think it is worth noting that the administration last year, in recognition of some of the difficulties that were being experienced in service contracts, promulgated regulations that mandated that under multiple award schedules, written statements of work had to be issued for each and every task and that the statement of work had to be performance-based and that the response had to be firm fixed price. Now, that latter piece is a bit troublesome to us, but the point is that they have very strongly tried to put a discipline into that process that perhaps was lacking before, and you heard earlier that we have all said it is difficult to write a performance-based statement of work, but it is the way to go.

The other thing I wanted to comment on, when the gentleman from the IG talked about errors and mistakes, he quoted the number of sole source task orders that were issued, and I think one of the things we in the industry understand is that if an agency is known to be very satisfied with a contractor, when they come up to recompete that business, we are going to be very reluctant to spend lots of moneys to try to unseat that vendor if we know, indeed, that the vendor is performing satisfactorily for the customer. That is commercial practice and we have got lots of other opportu-

nities with which to address our rather precious bid and proposal expenses.

Mr. HORN. Just in general, let me ask Mr. Engebretson, according to your testimony, you had the implementation of education and training requirements required by the Clinger-Cohen Act and you thought they were fairly inconsistent among the various agencies, and I guess I would ask you, which Federal agencies are doing a good job implementing these education and training requirements and which agencies are not? And they will probably say you will never eat lunch with them again.

Mr. ENGEBRETSON. That is exactly right. The truthful answer is that DOD does the best, just no question about that, and from that point on, it falls off very fast. Many of the other agencies do not have a system that is even close to educating any of their contracting officers as to understanding the entire Clinger-Cohen bill or FASA or even the FAIR Act or any of them. The other agencies really need, shall we say, a push.

Mr. HORN. Are these big agencies or little agencies?

Mr. ENGEBRETSON. Big agencies, you know, Veterans' Affairs and DOE and the list goes on.

Mr. HORN. Now, is there a group—some of you are representing groups—do they come out of these agencies and meet once a month and share ideas with people or what?

Mr. ENGEBRETSON. Not that I am aware of. A lot of this is done within the Department of Defense, within its agencies. But sharing what is happening in the Army that might be successful with the Veterans' Affairs, no, we do not see that being done.

Mr. HORN. That is sad, because there is no question the services in recent years do know how to relate to each other.

Mr. ENGEBRETSON. Yes.

Mr. HORN. What is a real plus, the chief financial officers are meeting. The chief information officers are meeting, and that is very helpful when they share knowledge.

Mr. ENGEBRETSON. Yes, absolutely. Yes.

Mr. HORN. And I did notice the sort of saying we ought to have a chief acquisition officer, and that would be the business manager or would that be strictly full time on the purchasing effort, because I have been irked at some of the agencies around here. My pet peeve was the Treasury, where the Assistant Secretary for Management said, oh, well, I am also the Chief Financial Officer. I am the Chief Information Officer. That is nonsense. That was a position created by the Hoover Commission, which was great in 1949, 1952, but that is a full-time 18-hour-a-day job for a large agency and you cannot have him also as the Assistant Secretary for Management. It is just that nothing is going to happen. Of course, they never admit it and they foul up every year and have something else that goes awry, but we will probably have to put it in the law, we meant it.

Mr. ENGEBRETSON. Mr. Chairman, I was just reminded that we have at present going on a Davis-Bacon training program. Today is the last day, but we have people from Social Security that are attending our training program because it is so in-depth and to help them understand the act itself.

Mr. HORN. That is interesting. I am a big Davis-Bacon fan. Is yours the only group doing it, or does the Department of Labor sometimes do it?

Mr. ENGEBRETSON. We actually have training programs for both Davis-Bacon and the Service Contract Act. The faculty is made up of the Wage and Hour Division people and we think that it is a unique program and probably the best for the simple reason that the contractors that attend and the government people that attend, they get a chance to talk to those very people that are making decisions on their behalf. So this is a 2-day process and we put a manual together for them to follow the act entirely and we have done the Service Contract Act now for 10 years and it has been very successful, and the Davis-Bacon we just started last year and it is turning out to be very successful, as well.

Mr. HORN. Let me ask you, and I maybe should know this, but I do not, and that is why I ask questions. Walsh-Healey, is that off the books or——

Mr. ENGEBRETSON. Walsh-Healey is still on the books and we still have——

Mr. HORN. So do you have reviews for that, too?

Mr. ENGEBRETSON. Yes, we do. We have some companies that are under the Walsh-Healey Act, as well, and we are going to have to implement that, as well, yes.

General TUTTLE. Mr. Chairman, could I comment on the question you asked about. Do the agencies get together for meetings? As you know, there is a Procurement Executives Council which is primarily the civil agencies, but, Dee Lee has, I think, done a great job to legitimize that, make it a formal organization. DOD is now participating, as I understand it. In fact, we at LMI and the Procurement Round Table sponsored a set of four seminars last year about this time, I think, the last one was held, where the agencies came together and almost every agency was represented, including defense, talking about the acquisition work force and professional development training. We did that on our own. We did not charge anybody for it. We just thought this was a useful contribution because we saw what you intimated, that there was precious little of this kind of trading of information around, and I think that maybe helped spark some increased relationships between the agencies.

Mr. LEINSTER. Also, sir, under the umbrella of the Federation of Government Information Resource Managers, they have established an Industry Advisory Council that is very, very active in bringing together members of industry and the government to share acquisition experiences. I know that ITAA has a monthly dinner series wherein a senior acquisition executive comes in and shares their experience with industry and it is a bilateral discussion that is very helpful. I am glad General Tuttle mentioned Dee's Procurement Executive Council, as well as the Front Line group that you recognized earlier. The whole purpose of that is to share experiences. So everybody is engaging. We all have ways to go, but it is so much better than it ever was before.

Mr. HORN. Mr. Thorpe, give me an idea of how you would have the process work on that five steps that you mentioned and take a TRW contract or process, whatever, and show me how you would improve that under Clinger-Cohen and what has that led you to.

Mr. THORPE. Yes, sir. We do a lot of indefinite delivery order contracts and I think part of the commonality or bridge between the contracting officer and industry, it was one of the ones I mentioned. The concern I would have, there is not a consistent execution within the different agencies, mostly DOD, that we do business with as far as the statement of work. We need performance-based service contracting, writing the statement of work.

Part of the benefits of writing the statement of work and having, for example, a draft RFP, which we do not see a lot of, is you get feedback from industry on all the procedural and process initiatives and problems that result from the government's perspective. They have a requirement. They either want an indefinite delivery type contract, they want a time and materials, even the contract type can be—this is not a smart thing as far as the information, the type of contract. We often change that, recommending a different contract type in the draft RFP.

The relationship between the technical people that you are dealing with in the government and the contracting people, typically in the government, they do not often talk and they are writing letters back and forth, both from the contractor to the government and between the government activities. We see the stove pipe still maintained. So I would remove the stove pipes.

But funding the acquisition training, I think is a key factor for any TRW contract or anybody's contract, and having them be aware of the latest changes. I had a recent situation where a senior contracting officer was asking for certified cost and pricing data below the $500,000 threshold. They are not permitted by law to do that, yet they were asking for a specific change order for certified cost and pricing data. That was a pretty major concern that we had with the process and the knowledge level. So I think it would apply both in the kind of business we do at TRW and for the General Services contract to focus on the training side, remove the stove pipes, and provide the process in a clear and determined manner.

Mr. HORN. How would you rate the Federal Government's use of the Internet to make contracting opportunities available? Mr. Davis mentioned that, and I did it in passing. Are they taking advantage of it or is it still the old paper stuff?

Mr. THORPE. It has dramatically improved, especially in DOD. We are seeing a dramatic use in the Commerce Business Daily of the electronic distribution. We are giving them the opportunity in some of our delivery order contracts to respond electronically. We do see paper flow back and forth, which is so helpful when you draft documents back and forth. So we are seeing a dramatic increase in that, but they can still go a lot farther in perpetuating that kind of relationship electronically.

Mr. ENGEBRETSON. Mr. Chairman, I think it is interesting that he said DOD again, and this is really very true. DOD is ahead of the other agencies tremendously.

One thing that excites me is this past performance issue, or performance-based contracting, because if they follow what was originally set up as the rules, the draft RFP would be something that is a part of the requirement of this program and that means that industry will then be able to review the RFP before they actually put it on the street.

The second thing that develops is what we call a partnering arrangement, where you work with the government officials and try to find the best approach to whatever the issue may be or whichever the project may be and the contractor and the government works together to get the best results, of course, for the taxpayers. So I think it has great potential.

Mr. HORN. You were probably here when the gentlewoman from New York, Ms. Kelly, asked some of the questions because that is certainly a concern of ours. Has the electronic commerce revolution helped or hindered the ability of small and disadvantaged businesses or women-run businesses to contract with the Federal Government? What do you see? Do you see things going downhill and opportunities not coming?

Mr. ENGEBRETSON. No, I see that this is helping small business. Again, some small businesses do not have the technical ability to tie into the Internet. There still are businesses out there as such. But the small businesses that are doing it and we are encouraging it, they are benefiting from this, no question about it, yes.

General TUTTLE. It is so much less expensive for them to acquire marketing information now and to get onto the multiple awards schedules. I know a couple companies where there are just two or three people in the business that are on the management organization/business improvement services schedule. So it is a lot easier than it ever was, and I think GSA has been very open with it. Bill Gormley's name was mentioned. We found he has been proselytizing to try to get people to sign up and his folks have really done a great job.

Mr. HORN. Can anyone get on that schedule or is there a clearing process?

General TUTTLE. There is a clearing process. In other words, you have to have——

Mr. HORN. Who makes those judgments?

General TUTTLE. In the case of the schedule, GSA does, but it is a very broad set of criteria that are there. I mean, you have some experience, some base, and you have rates, and then you are, basically, you are on. I mean, it is hard not to be accepted. You have got to be almost a person that has a company that has had a series of defaults not to be able to get on.

Mr. HORN. In other words, you would have to have defaulted on a contract or what?

General TUTTLE. Yes, defaulted on a contract, probably more than once, in order to not get on. It is very open.

Mr. HORN. We will need to check that with the staff just to see how the process works and maybe get them to put a half-a-page in the hearing record.

Mr. Leinster, according to your testimony, the Federal Government is lagging behind State and local governments in utilizing the Internet. Where are the best State uses of this as you have seen it around the country?

Mr. LEINSTER. Arizona has a very good access to the citizen service for vehicle registration, for license renewals, things of that sort. The State of Washington is very advanced in their utilization of Internet-based processes, again, access to the citizen. And we are now seeing many local municipalities springing up aggressively.

Mr. HORN. How about California and Pennsylvania? What is your read on that?

Mr. LEINSTER. California is very aggressive and moving out very rapidly. I mean, I think, quite frankly, that the States are very quick to respond to private initiatives and they are taking much more rapid advantage of the capabilities than the Federal Government is at this point. California is a leader. Pennsylvania has a real advanced system.

Mr. HORN. They have a program, yes. Governor Ridge has long been very interested in the new information age and did a lot. He was one of the first to care about Y2K as a Governor. Governor Wilson was very close behind him.

Are there any other points you would like to make before we adjourn this hearing?

[No response.]

Mr. HORN. Let me thank the staff that prepared this hearing, and I might add that we are going to keep the record open for 2 weeks should any of you have a thought that you want to add to your testimony. Feel free to send it to Mr. Kaplan here and we will put it in the hearing record. The Democratic side will also have that opportunity.

I want to thank the staff director and chief counsel—he is not here right now—J. Russell George for the Subcommittee on Government Management, Information, and Technology. Randy Kaplan is the staff counsel, to my left and your right. Seated in the back row there is Bonnie Heald, director of communications; Bryan Sisk, clerk; and Ryan McKee, staff assistant. And then for the minority side, Trey Henderson has been very patiently counsel for Mr. Turner, and Jean Gosa, the minority assistant clerk. Mr. David Kasden is the court reporter for today. We are sorry to wear you out so long. Your ears must be pounding away in there saying, help, but thank you for the find job you have done.

With that, we are in adjournment.

[Whereupon, at 1:37 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2885

APR 21 2000

Honorable Stephen Horn
Chairman, Subcommittee on Government
Management, information and Technology
House of Representatives
Washington, D.C. 20515-6143

Dear Chairman Horn:

This is in reply to your letter of April 13, 2000, which posed five questions as a follow-up to the March 16, 2000, hearing on Federal acquisition management. Responses to those questions are enclosed.

If there are questions, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703) 604-8324.

Sincerely,

Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosure

cc: Honorable Jim Turner
Ranking Minority Member

Question 1. On pages 1 and 2 of your testimony you cite a number of challenges the Department of Defense must balance in order to achieve an efficient acquisition system. Would you agree that the achievement of small and women-owned business goals is another challenge faced by the Department of Defense? If so, why was this challenge omitted from your list?

Answer:

We fully agree that the Department faces a difficult challenge in striving to reduce the cost of procured goods and services, while also complying with the range of socioeconomic restrictions, requirements and goals that are set forth in various laws and regulations. It would certainly be appropriate for the challenge of achieving a balance between efficient procurement and achievement of goals related to small business, especially small and disadvantaged business, to be reflected in a comprehensive list of acquisition management issues. The introductory discussion of management challenges in our written testimony was merely intended to provide examples of broad challenges, so that the ensuing detailed discussion of three areas covered by recent audits would be kept in context, avoiding any impression that those audit results address all acquisition issues or necessarily the most difficult of those issues.

Question 2. On pages 10 and 11 of your testimony, you address multiple task award contracts and criticize award of sole source contracts within the multiple task awards. How many of these sole source contracts went to small or women-owned businesses? If this information is not available, please explain why?

Answer:

For contracts reviewed for Audit Report No. 99-116, DoD Use of Multiple Award Task Order Contracts:

Thirteen of 50 contracts and 50 of 156 task orders we reviewed were awarded to small businesses. Small business task orders accounted for $32.8 million of the $143.7 million we reviewed. Listed below are the different categories under which the small business contracts were awarded.

Small Business Set-Asides. Four contracts, valued at $18,356,761 and 28 task orders actions, valued at $16,438,454 were awarded under the small business set-aside program. one contract and 6 task orders were awarded to a Hispanic owned company and another contractor's ethnic group was unknown.

Section 8(a) Set-asides. Two contracts, valued at $4,729,548 and 3 task orders, valued at $613,126 were awarded as set-asides under the Section 8(a) program. Both contracts were awarded to African American owned companies.

Small Business Program. Seven contracts, valued at $18,945,983 and 19 task orders, valued at $15,781,928 were awarded to small businesses but not under any set-aside program. One contract and five task orders was awarded to a Hispanic company and the others to an unknown ethnic group.

For contracts reviewed for Audit Report D-2000-100, Contracts for Professional, Administrative, and Management Support Services:

Eight of 46 contracts and 6 of 59 actions we reviewed were awarded to small businesses. Small business contracts accounted for $188.6 million of the $10 billion we reviewed. Listed below are the different categories of small business contracts.

Small Disadvantaged Businesses. We reviewed 3 contracts, valued at $63,767,058 and 3 actions, valued at $3,092,910 awarded under the small disadvantaged business set-aside program. One contract and two actions were awarded to an Asian American company. one contract and 1 action were awarded to an African American woman-owned company and the other contractor's ethnic group was unknown.

Section 8 (a) Set-asides. We reviewed 3 contracts valued at $53,049,623 and 2 contract actions awarded under the Section 8 (a) program. Two contracts were awarded to Asian American owned companies and the other contract was listed as "other" in the database. The two actions we reviewed were from one of the Asian American owned companies.

Small Business Program. Two contracts, valued at $125,172,788 and one action, valued at $270,000, were awarded under the Small Business Program. One contract was awarded to a Hispanic company and the other to an unknown ethnic group.

Question 3. Again with respect to multiple task award contracts, are sole source contracts being awarded to large businesses because the specific requirements written-by contracting officers are drafted in such a way that only large businesses are technically able to meet the requirements?

Answer:

Multiple award task order contracts are competitive procurements that result in awards to more than one firm. Individual task orders placed against such a contract may be sole source. The scope of the two audits mentioned in the testimony did not include an analysis of how the wording of requirements affected the likelihood of only large businesses receiving awards. Therefore we have no informed basis for providing an opinion in reply to this question.

We are aware, however, that the Women' s Business Centers Sustainability Act of 1999, Public law 106-165, requires the General Accounting Office to provide a report to the Congress on Federal contracting involving women-owned small businesses for fiscal years 1997, 1998 and 1999. The General Accounting Office has initiated the DoD portion of its review, which will address trends in contracting with women-owned businesses and any barriers created by laws, regulations and procurement practices.

Question 4. Should goals for small and women-owned businesses be part of the revisions to multiple award task order contracts?

Answer:

Again, because we have not audited the DoD efforts to promote small and women-owned businesses, we do not have first hand evidence concerning impediments to increased participation by various categories of firms. Therefore we do not have sufficient information to enable us to give an informed answer to the question. The ongoing General Accounting Office review may address any nexus between specific contracting practices and impediments to small and women-owned businesses.

Question 5. On page 14 of your testimony, you mentioned problems with spare parts over-pricing. The Department of Defense has a policy of bundling contract requirements into a large contract thereby making it difficult for small businesses to compete for the prime contract. Do you think that problems associated with spare parts overpricing can be resolved by reducing contract bundling thereby increasing the number of small businesses that can realistically compete for spare parts contracts?

Answer:

Excessive prices for spare parts can be caused by a variety of factors and therefore some courses of action would be beneficial in some instances, but not in others. In situations where small businesses are the original equipment manufacturers and demand by DoD is stable and predictable, unbundling contracts to eliminate middlemen often makes good business sense. In other cases, especially where demand fluctuates unpredictably, paying a prime vendor or other middlemen to manage the entire vendor base for a large group of items could reduce the DoD administrative burden and be less costly.

GSA U.S. GENERAL SERVICES ADMINISTRATION
Administrator

April 28, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The General Services Administration (GSA) has reviewed the report titled "U.S. Mexico Border: Better Planning, Coordination Needed to Handle Growing Commercial Traffic" (GAO-NSIAD-OO-25) and we concur with the recommendations.

As stated in our previous letter, GSA has already taken steps to improve the coordination and facility planning through the efforts of the Border Station Center of Expertise and its involvement with the Border Station Partnership Council. We agree that the development of a database will provide valuable information for facility planning purposes.

We are also coordinating with the Border Station Partnership Council and the Federal Highway Administration to develop and use a generic simulation tool tailored to model the physical and operational characteristics of individual border crossings.

GSA expects these actions to improve our ability to assist the Federal Inspection Services in reducing congestion at our borders.

If you need any additional information, please have a member of your staff contact Mr. James King, Director, Border Stations Center of Expertise, Public Buildings Service, at (817) 978-2560.

Sincerely,

David J. Barram
Administrator

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

May 4, 2000

The Honorable Stephen Horn
Chairman
Subcommittee on Government Management,
Information, and Technology
Committee on Government Reform
B-373 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

This letter is in response to your April 13, 2000 letter seeking our responses to follow-up questions on the Subcommittee's hearing on Federal acquisition management. Our responses to the Subcommittee's questions are set forth in the enclosure.

If you have any questions, please do not hesitate to contact me, or your staff may contact Mathew Blum of the Procurement Law and Legislation Branch of my office at (202) 395-4953.

Sincerely,

Deidre A. Lee
Administrator

Enclosure

Enclosure

Follow-up Questions to the Office of Management and Budget

Small and Women-owned businesses

1. **What type of training do Federal contracting officers receive to assist them in identifying women-owned businesses when doing their market studies on prospective bidders?**

   Federal contracting officials receive training to meet the core competencies for the GS-1102 procurement series. The training, among other things, focuses on various aspects of the procurement process, including acquisition planning, contract execution, and contract administration. While we have not developed courses that solely emphasize marketing for women-owned businesses, contracting personnel attend courses providing information on small business programs in general. These courses highlight the various types of small businesses including women-owned businesses.

   Upon request, SBA provides outreach training to Federal contracting officials on its small business programs and encourages agencies to use small businesses to the maximum extent practicable. SBA promotes use of its Procurement Marketing and Access Network (PRO-Net), an Internet-based database of over 181,000 small businesses, so that agency contracting officials can more easily identify small business vendors, including women-owned small businesses, when conducting market research. OFPP and SBA participate in meetings of the Directors of the Office of Small and Disadvantaged Business Utilization (OSDBU) and the Procurement Executives Council (PEC) to make contracting and small business officials aware of the small business programs. In addition, SBA hosts an annual joint industry/ procurement conference that provides training on its small business programs.

2. **On page 2 of your testimony, you mention that the Federal Government must ensure it is fully using the increased flexibility under the recently enacted acquisition reforms. How will you ensure that increased flexibility does not come at the expense of Federal business opportunities as many Department of Defense (DOD) requirements are bundled (either on a geographic or requirements basis or both) into new flexible acquisition tools? How will the Office of Federal Procurement Policy (OFPP) comply with the regulations on bundling mandated by the Small Business Reauthorization Act of 1997?**

   The policy on bundling, which implements the bundling provisions of the Small Business Reauthorization Act of 1997, is embodied in two regulations, i.e., SBA's interim rule on bundling and a Federal Acquisition Regulation (FAR) interim rule. SBA's rule prescribes measurably substantial benefits that agencies must identify to justify bundling. Under that rule, agencies must take actions designed to maximize

small business participation as prime contractors and subcontractors even when bundling is found to be justified. Agency acquisition strategies that would consolidate or bundle procurement requirements as well as agency justifications for bundling are subject to review by SBA Procurement Center Representatives and agency OSDBU offices. OFPP has been working closely with SBA in the development of both the SBA and FAR rules. We anticipate that OFPP will continue to work with SBA to monitor implementation of the rules and suggest changes, when necessary. However, OFPP does not interfere with agency discretionary action on particular procurements.

3. **Also on page 2 of your testimony, you note that the OFPP and the DOD are interested in moving towards a greater use of commercial buying practices for the purchase of goods and services. While the commercial model will undoubtedly enhance efficiency in Government acquisition, how do you resolve the situation where the commercial model conflicts with statutory requirements concerning the purchase of goods under the Buy American Act or the small business utilization requirements of the Small Business Act?**

We have been working actively to place greater reliance on the commercial marketplace and take advantage of successful commercial buying practices. We remain convinced that these efforts will help us to get more for our contract dollars. Although certain statutory requirements distinguish our buying environment from that of a typical commercial buyer, we have nonetheless sought to implement our strategies in ways that enable us both to effectively meet the objectives of applicable statutory requirements and, at the same time, reap the benefits of streamlining and other acquisition reforms brought about by Administration initiatives and the enactment of laws such as the Federal Acquisition Streamlining Act (FASA) and the Clinger-Cohen Act.

For example, agencies are finding that multiple award task and delivery order contracts (MACs), endorsed by FASA, are helping contracting officials to use streamlined commercial-style competitions to efficiently apply continuous competitive pressure to yield high value. In doing so, they are looking for ways to use these vehicles to facilitate access to the services of competitive small businesses. The Transportation Department's Information Technology Omnibus Procurement (ITOP) and the Commerce Department's Information Technology Solutions (COMMITS) Contract -- two MACs which have been specifically designed for active government-wide use -- are structured to help agencies take greater advantage of the services of qualified small businesses in the acquisition of information technology. We will continue to look for ways to ensure that our activities, shaped by government-unique requirements, take maximum practicable advantage of proven commercial practices that can help us achieve better mission support and more value for taxpayer dollars.

4. **You mention on page 3 of your testimony that the Government should emphasize past performance when selecting contractors. What factors are considered in a past performance review? Are factors such as statutory compliance with small business subcontracting plans taking into consideration? Will a past performance review include new standards of contractor responsibility under Part 9 of the Federal Acquisition Regulation (FAR), an issue on which you testified before the Small Business Committee?**

OFPP's "Best Practices" document on the use of current and past contractor performance includes four factors to be considered in a past performance review:

1. *Quality of performance* to measure how well the contractor performed against contract requirements and standards;

2. *Cost performance* to determine how close the contractor performed to the cost estimates in the contract;

3. *Schedule performance* to determine how timely the contractor delivered interim and final milestones or deliverables; and

4. *Business relations* to evaluate the contractor's professional behavior and overall business-like concern for the interests of the customer, including timely completion of all administrative requirements, and other contract requirements, such as:

    - user satisfaction,
    - subcontract management -- including compliance with small business subcontracting plans and achievement of small/small disadvantaged and women-owned business participation goals, and
    - integration and coordination of all activities needed to execute the contract.

Past performance review will not include the new standards of contractor responsibility under Part 9 of the FAR. Part 9 requires that a prospective contractor have a satisfactory performance record in order to do business with the government. This emphasis helps ensure that taxpayer dollars are not wasted on contractors that are not capable of performing. By contrast, the emphasis of our past performance initiative (implemented in FAR Part 15) is on considering the relative strength of a contractor's track record during the evaluation process so that we can distinguish which offeror is most likely to provide the best overall value to the government. In addition, the past performance initiative has application to our contract administration activities (as reflected in FAR Subpart 42.15). Agencies are required to evaluate a contractor's performance against specific contract requirements in an effort to improve performance on the instant contract. The contractor performance evaluations are placed in a database for use in future source selections so that contracting officers can compare the track records of competing responsible offerors to help identify which one offers the best overall value.

5. **You note in your testimony that periodic review of past performance enables the contractor to remedy poor performance. Does this periodic review include compliance with the subcontracting plan and utilization of small and women owned business? If not, why not?**

The interim (periodic) reviews of contractors' performance include the same evaluation factors that are in the final reviews (described in the answer to question no. 4 above). Our goals are both to ensure successful performance on the instant contract and to improve our ability to select high quality contractors for new contract awards. The periodic reviews are beneficial in that they provide early feedback to contractors on how well they are performing against the contract requirements, including compliance with the subcontracting plan and utilization of small and women-owned businesses. If contractors are experiencing problems, they will have the opportunity to correct them prior to the final reviews.

6. **In your view, can performance based service contracts be used to bundle services? For example, the Navy and Marine Corps are planning to reconstruct their entire communications network into a private Intranet. Many of these services are currently performed by local telephone companies and the Navy is not authorized in many states to own or operate a telephone network that is certified to interconnect with the rest of the local telephone network in a particular state. So in this case, the mechanism for delivery is critical but the Defense Department insists that the contract be bundled, allowing one company to run the entire network. Many of the services will have to be subcontracted to certified local telephone companies. How does the OFPP determine that such procurements are a good idea?**

OFPP policy on performance based service contracting (PBSC) encourages agencies to more clearly define the work to be performed under the contract into measurable elements that can be more effectively managed. This increases opportunities for small businesses because the resulting contracts are oftentimes smaller in scope. However, agencies are not precluded from using PBSC in procurements that are restructured to consolidate substantially similar services to allow for more efficient agency operations. Of course, agency actions to consolidate procurements are subject to the requirements in the SBA and FAR rules on bundling (as described in the answer to question no. 2). OFPP does not interfere with agency discretionary actions on particular procurements.

7. **In your written testimony you identify new acquisition tools such as multiple award schedules, government wide acquisition contracts, etc. Many of these new acquisition tools take the form of bundled contracts. Will the OFPP and other Government agencies consider the impact of these new acquisition tools and their impact on small businesses?**

OFPP works with SBA and the agencies on an ongoing basis to foster an environment that offers significant opportunities for small businesses to obtain

work under MACs, including government-wide acquisition contracts (GWACs) and multi-agency contracts. Similarly, the General Services Administration (GSA) has worked with SBA to promote active small business participation in the Multiple Award Schedules (MAS) program.

Shortly after FASA codified use of MACs, OFPP began working with program managers and agency senior procurement executives to develop strategies to ensure effective small business participation on these vehicles. These strategies, most of which are discussed in OFPP's "Best Practices for Multiple Award Task and Delivery Order Contracting" (available on the Acquisition Reform Network at www.arnet.gov), include:

- Structuring solicitations for MACs (including GWACs) in a manner that will facilitate small businesses' ability to win prime contracts (such as by dividing requirements into functional areas);
- Providing opportunities for small businesses to team with large companies;
- Assigning weight to the quality of the subcontracting plan, or for past performance under earlier plans, as an evaluation factor in the overall competition for the contract; and
- Establishing a MAC set-aside for small businesses.

Agencies are taking these strategies into consideration when structuring MAC vehicles. ITOP and COMMITS (which is a GWAC set-aside entirely for small business) are but two examples (see the response to answer no. 3, above). In a report issued by the General Accounting Office (GAO) looking at multiple award contracting practices at six Federal agencies (GAO/NSIAD-98-215, B-277893), the GAO found that agencies were taking steps to ensure small businesses were receiving orders on MACs.

The MAS program, which gives agencies access to a wide array of contractors offering a broad range of products and services, provides a vehicle for a large number of qualified small businesses to do business with the Federal government. Use of small business schedule contractors is promoted in a variety of ways. For example:

- Federal agencies now include orders placed against the MAS in their annual small business goals and accomplishments. This increases incentives for agencies to take advantage of the flexibilities of the MAS to increase contractual awards to small businesses.
- GSA Advantage!™ an electronic catalog of the items in the GSA supply system, both identifies small business schedule contractors and permits customers to search for products and services offered by these small businesses. GSA's Schedules E-Library also identifies the product and service offerings of small business concerns.
- GSA encourages use of team arrangements for schedule buys, including blanket purchase agreements used for repetitive or higher volume purchasing, so that small businesses can participate in performing work on contracts they would not otherwise be able to obtain.

We will continue to work with SBA, GSA, and other agency managers of inter-agency vehicles (especially large vehicles) to ensure the continued effective participation of small businesses as agencies strive to capture the benefits of these flexible contracting tools in meeting mission needs.

Minimum personnel experience and educational requirements

8. **To what extent are mandatory minimum personnel experience and educational requirements (requirements) written into Government contracts for the procurement of information technology goods and services?**

We have no formal, systematic method for determining the extent to which personnel requirements are written into contracts for information technology. However, our anecdotal experience derived from reviewing hundreds of contracts, solicitations, and acquisition strategies of virtually every agency have led us to the conclusion that such requirements have been used too frequently. This is true not only for IT contracts, but also for contracts for other services.

This Administration has recognized the problem and is taking steps to eliminate it. For example, one of the key goals of our PBSC initiative is to eliminate contractor personnel requirements unless the agency otherwise cannot assure its needs will be met without such requirements. PBSC was selected by the PEC to be a core mandatory acquisition system performance measure, with the goal of having 50% of all service contracting expenditures (including IT) using PBSC by FY 2005, to be measured through the Federal Procurement Data System (FPDS) beginning FY 2001 and subject to audit. For a contract to qualify as a PBSC, the FPDS instructions require that the contract be free of personnel-related requirements. Further, OFPP's Government-wide PBSC Solicitation/Contract/Task Order Review Checklist requires that "Process-oriented requirements (e.g., job descriptions, education requirements, level-of-effort) and reports [be] eliminated to the maximum feasible extent."

9. **Why are these requirements written into Federal information technology contracts? Are Federal contracting officers trained to understand that a particular major or other minimum education or experience requirements may not demonstrate whether or not an employee is qualified and capable?**

The reviews we have performed suggest that personnel requirements are written into Federal IT (and other services') contracts because agencies too often are not prescribing the work to be performed by contractors in measurable, mission-related outcome terms, and instead are prescribing how the work is to be performed to obtain desired results. While contracting officers may understand that such requirements are often antithetical to developing sound acquisitions, definition of the work to be performed is typically the responsibility of the agencies' project officers. Our PBSC initiative is aimed at program managers at least as much as it is to contracting staff.

10. **Has Federal contract work been delayed because of these requirements? Which Federal departments and agencies have communicated to the OFPP that these requirements are not working?**

We have no evidence that personnel-related requirements have delayed completion of contract work. However, over-reliance on process-oriented requirements such as these, to the detriment of outcome-based statements of work, have often resulted in cost growth and performance delays to the extent that contractors spend time and money after award figuring out what the agencies are looking for and following Government-required processes that are less efficient than those that contractors could use if not hamstrung. If contractors were told at the outset what performance levels were required (along with appropriate incentives to achieve them) and left up to their ingenuity to determine the best performance methods, then these problems would vanish.

No agencies have directly informed us that these requirements are not working. However, the PEC's unanimous endorsement of PBSC (and that of the President's Management Council), as well as many key agencies' internal PBSC initiatives (e.g., DOD, HUD, FEMA, DOT), are a de facto recognition of this fact.

11. **Considering the shortage of information technology workers in the United States as well as rapidly evolving technologies, are Federal contracting officials trained to be flexible when writing requirements into information technology contracts?**

PBSC training includes eliminating personnel-related requirements from IT and other services contracts. However, as stated in response to question no. 9 above, this generally falls within the purview of project officers, and agencies have recently begun addressing this by including project officers in PBSC training. We are confident that, over the next few years, these unnecessary contract requirements will fade away as the PBSC initiative becomes ingrained into agency cultures.

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Question No. 1

SMALL AND WOMEN-OWNED BUSINESSES

Mr. Chairman: We noticed in your testimony that you did not refer to small business as an acquisition challenge. Please list all laws and regulations that require the Department of Defense to consider small businesses when awarding Federal contracts. Please identify the extent to which the Department is complying with these requirements. Also please include a discussion of instances where, under acquisition reform, the Department is utilizing small businesses as prime contractors.

Mr. Soloway: There are a number of statutes and regulations that provide for the Department to consider small businesses when awarding Federal contracts. These include Section 637 and Section 644 of the Small Business Act and amendments thereto; Title VII of the Federal Acquisition Streamlining Act; 10 U.S.C. 2323; Part 19 of the Federal Acquisition Regulation; and 13 CFR Parts 121, 124, 125, and 126.

The Department's implementation of these and on-going initiatives has increased opportunities for small business prime contract awards. By adopting commercial practices and standards, we have reduced our reliance on the defense-unique industrial base. As a result, more commercial firms, including small businesses can compete for DoD requirements. In a further effort to broaden our industrial base, the Department recently issued policy to require the use of performance-based acquisition strategies wherever possible. This strategy increases competition and allows the Department easier access to the innovation and creativity predominant in the small business community.

Small business firms have been and will continue to be vital partners for supplying goods and services to the warfighter. For example, the Defense Logistics Agency has a number of small business firms that are Prime Vendors for subsistence, industrial, and medical commodities. These contracts were awarded competitively using best value source selection techniques.

In addition, DoD is now implementing a new "Challenge" program, whose purpose is to create competitive incentives for DoD prime contractors for major acquisition programs to insert new technology from small technology companies and other commercial firms. We are implementing this new program as a pilot initiative of significant scope, involving 20 Acquisition Category 1 or 2 programs over the next two years. We are hopeful that this new initiative will significantly increase the Department's ability to harness the innovative talents of small technology companies.

As indicated by our small business program goal achievements, our on-going initiatives continue to have a positive impact on the ability of small business firms to compete for DoD requirements. We have exceeded the small business prime contract award goal in 4 of the last 5 fiscal years.

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Question No. 2

SMALL AND WOMEN-OWNED BUSINESSES

Mr. Chairman: On page 5 of your written testimony you state that "we need to institute new requirements and acquisition strategies that include more flexibility in requirements documents." At a hearing held by the Small Business Committee, David Oliver, Principal Deputy Under Secretary for Acquisition and Technology, Department of Defense, testified that the Flexible Acquisition and Sustainment Tool (FAST) contract is a new flexible acquisition tool. Is this the type of flexible acquisition tool that you referred to in your testimony? Describe how this acquisition tool would impact the ability of small business to obtain Federal contracts. How will Defense Acquisition Reform Initiatives ensure Federal contracting opportunities for small businesses? What mechanisms will you provide to ensure that small businesses get their fair share, not just of subcontracting dollars, but of prime contracting dollars?

Mr. Soloway: The Department has several outreach programs to keep the small business community informed of upcoming requirements. These include announcements in the Commerce Business Daily, posting on electronic bulletin boards, and consulting with SBA Procurement Center Representatives. Contracting officers may also use other techniques as appropriate for specific requirements and market situations. Where market research indicates that there are two or more small businesses that may be interested in and capable of performing the work, the contracting officer may use small business set-asides.

The Air Force FAST Program acquisition strategy is currently under review. As currently structured, the FAST program contemplates a minimum of two prime contract awards to small businesses. The Program includes a goal 15 percent of the prime FAST awards to small businesses. Additionally, the FAST program will require the large businesses to subcontract at least 23 percent of their direct dollars to small business. With these program goals and the mechanisms being established to manage program performance, the FAST program should have a beneficial effect on selected small businesses and may increase the dollars going to small businesses.

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Question No. 3

SMALL AND WOMEN-OWNED BUSINESSES

Mr. Chairman: How does the Department ensure that its business participation goals for women-owned businesses are achieved? When considering a bid by a prime contractor, what is the specific evaluation process for the contracting officer to assess the small business utilization plans for women-owned businesses?

Mr. Soloway: The Department of Defense has both a 5 percent prime contracting goal for awards to women-owned small business (WOSB) firms and a 5 percent subcontracting goal for WOSB awards. While we do not have statutory authority to provide a procurement preference for these firms, every effort is made through the 8(a), HUBZone, and small business set-aside programs to enable the Department to achieve the WOSB goal. In addition, we have launched industry-focused outreach programs to identify women owned small business firms, and provide training and technical assistance programs to develop capabilities within the WOSB community, enabling these firms to compete successfully for DoD procurements. These efforts include: a DoD WOSB website (www.acq.osd.mil/sadbu/wosb) with a step-by-step guide for accessing the DoD marketplace; proactive solicitation of WOSB firms on competitive requirements; a Manufacturing Technical Assistance Program for WOSB firms (funded by the Air Force); training through the Procurement Technical Assistance Centers; and targeted outreach to WOSB firms in the healthcare, manufacturing, research and development, and construction industries.

Small business subcontracting plans are submitted by all large business apparently successful offerors for requirements expected to exceed $500,000 ($1,000,000 for construction). Each subcontracting plan contains a specific goal for subcontract awards to WOSB concerns. Prime contractors must notify the administrative contracting officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan.

The contracting officer, in acquisitions requiring a subcontracting plan (other than those based on the lowest price technically acceptable source selection process), ensures that the extent of participation of small businesses (including WOSB firms) in performance of the contract is addressed in source selection. Participation may include joint venture, teaming arrangement, or participation as a subcontractor. Evaluation factors may include: the extent to which such firms are specifically identified in proposals; the extent of commitment to use such firms; the complexity and variety of the work small firms are to perform; the extent of participation of such firms in terms of the value of the total acquisition; and the past performance of the offerors in complying with previous subcontracting plans. Additional factors may be developed and utilized at the discretion of the contracting officer.

It should also be noted that as part of the FY2001 DoD Authorization request, the Department is seeking authority to expand the DoD Pilot Mentor-Protégé Program to allow WOSB concerns to be selected as proteges. The Mentor-Protégé Program has been a useful tool in the Department's efforts to meet and exceed the 5 percent small disadvantaged business subcontracting goal. The expansion of the program to allow WOSB firms to participate as proteges could provide the Department with the edge we need to achieve the 5 percent WOSB subcontracting goal.

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Question No. 4

MINIMUM PERSONNEL EXPERIENCE AND EDUCATION REQUIREMENTS

Mr. Chairman: To what extent are mandatory minimum personnel experience and educational requirements (requirements) written into Department of Defense contracts for the procurement of information technology goods and services?

Mr. Soloway: In contracting for the provision of information technology (IT) services, mandatory minimum personnel experience/educational requirements are written into the contracts. In practice, however, these requirements are rarely needed in the procurement of IT goods. The Department supports the principle that a Federal agency should not specify experience and education requirements for contractor personnel in the procurement of information technology unless the agency otherwise cannot assure its needs will be met without such requirements. The Department has been increasing its emphasis on the implementation of Performance-Based Contracting (PBC) where the Government identifies its requirements in terms of desired performance objectives rather than emphasizing how the work is to be performed or who is to perform it. When PBC methods are used, the contractor is responsible for providing the appropriate resources, such as personnel and relevant qualifications, necessary to meet our performance objectives. Additionally, the source selection process places increased emphasis on past performance evaluations, which helps us to ascertain whether a company has the appropriate experience and a proven track record for providing quality IT performance commensurate with the specified performance requirements. Consequently, our focus on the use of PBC, which is one of the Department's priority management objectives, should help avoid situations where agencies specify unnecessary minimum experience and education requirements for contractor personnel.

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Question No. 5

MINIMUM PERSONNEL EXPERIENCE AND EDUCATION REQUIREMENTS

Mr. Chairman: Why are these requirements written into information technology contracts? Do Defense Department contracting officers receive training to determine whether a college degree, particular major or other experience or educational requirement demonstrates whether or not an employee is qualified and capable?

Mr. Soloway: Evaluation factors such as education and certification levels can provide a level of confidence that the requirements of an IT contract can be carried out effectively, especially where past performance data is not available. However, as noted in my response to the previous question, the use of Performance-Based Contracting (PBC) and source selection criteria should reduce the need in the future to specify minimum experience and education requirements for contractor personnel. As we expand our implementation of PBC, we should see less and less reliance on these requirements. With regard to training, contracting officers (COs) receive training that supports his/her role in the source selection process to ensure that the evaluation criteria are not skewed toward a certain product or service provider and that full and open competition occurs. The CO relies on the technical community within the military service, agency or organization to develop technical criteria that focuses on an agency's need and to assist in evaluating the value of the service being offered. In light of our increased use of PBC, we are also expanding our training in this area, not only for COs but other members of the relevant workforce as well.

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Question No. 6

MINIMUM PERSONNEL EXPERIENCE AND EDUCATION REQUIREMENTS

Mr. Chairman: To what extent have Defense Department contract work been delayed because of these requirements?

Mr. Soloway: Delays occur if the marketplace is unable to support the level of qualifications stipulated in a solicitation. In the information technology area, industry is usually able to satisfy the requirements of the contracts in a timely manner.

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Question No. 7

MINIMUM PERSONNEL EXPERIENCE AND EDUCATION REQUIREMENTS

Mr. Chairman: Considering the shortage of information technology workers in the United States as well as rapidly evolving technologies, are Defense Department contracting officials trained to be flexible when writing requirements into information technology contracts?

Mr. Soloway: Yes. DoD contracting officials and their technical counterparts are currently being trained to develop criteria that foster selection of vendors who are best able to satisfy the agency's need. Because the marketplace often offers many differing approaches to satisfy an agency's need, and agencies are interested in obtaining the best value, flexibility, consistent with fulfilling the contractual requirements, is key in developing evaluation criteria.

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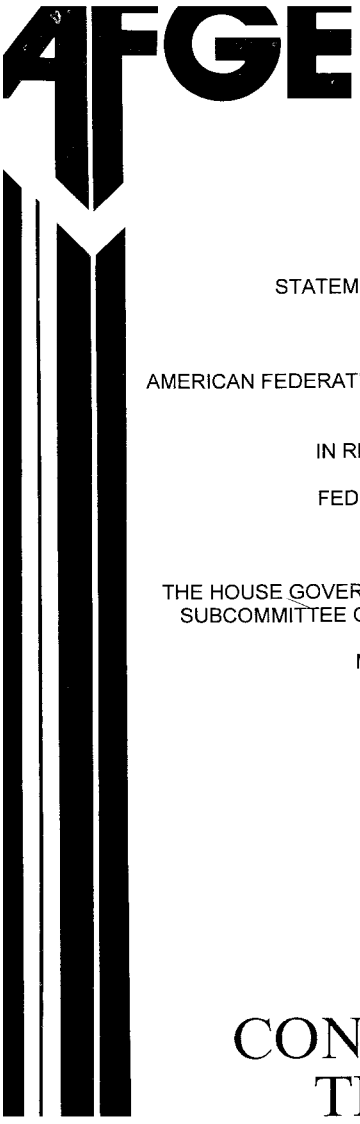

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STATEMENT FOR THE RECORD

OF THE

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

IN RE THE HEARING ON

FEDERAL ACQUISITION

BEFORE

THE HOUSE GOVERNMENT REFORM AND OVERSIGHT SUBCOMMITTEE ON GOVERNMENT MANAGEMENT

MARCH 16, 2000

CONGRESSIONAL TESTIMONY

INTRODUCTION

AFGE is the largest federal employee union, representing more than 600,000 public employees serving across the nation and around the world. We appreciate this opportunity to discuss the issue of most concern to federal employees: contracting out.

1. The Failure to Monitor the Costs and Consequences of Contracting Out: Supporters of contracting out claim that public-private competitions generate savings for the taxpayers. The Administration's fiscal year 2000 budget alone claims that contracting out "has shown savings of 30 to 40 percent".

Outside of the contractor community, such a claim inspires only skepticism and scorn. That a drastically increased reliance by agencies on contracting out has failed to yield promised savings is no longer subject to dispute. Republican and Democratic lawmakers on this very committee, the people with the experience and the expertise with respect to tracking the money for activities of the Department of Defense (DoD), both before and after they are contracted out, said in last year's bill that they

> *"harbor(ed) serious concerns about the current DoD outsourcing and privatization effort. While the Committee recognizes the need to reduce DoD infrastructure costs, the cost savings benefits from the current outsourcing and privatization effort are, at best, debatable. Despite end-strength savings, there is no clear evidence that this effort is reducing the cost of support functions within DoD with high cost contractors simply replacing government employees."*

In their version of last year's defense appropriations bill, the Senate Appropriations Committee agreed, "express(ing) concern that projected savings through A-76 planned competitions do not match actual savings."

The General Accounting Office (GAO) agreed with House and Senate appropriators. While consistently noting that public-private competition could save money, Congressional auditors simply do not share the Administration's high opinion of contracting out:

> *"During the long history of our work in this area, GAO has consistently found that evaluating the overall effectiveness of contracting out decisions and verifying the estimated savings reported by agencies is extremely difficult after the fact. As a result, we cannot convincingly prove nor disprove that the results of federal agencies' contracting out decisions have been beneficial and cost-effective."*

That is, even after years and years and billions and billions of dollars in contracting out, the GAO cannot say that the taxpayers have been well-served.

On what basis, then, does the Administration insist that contracting out shows savings of at least 30 percent? That estimate is based on the difference between the costs of performing the work in-house when the contracts are awarded, and the bids that are submitted by winning contractors. Only after persistent questioning will Administration officials admit that they have no proof that the savings promised by contractors are actually realized. Instead, they simply take it on faith that the contractors will deliver services at the costs specified in their contracts despite considerable evidence to the contrary.

In early 1999, after a lengthy review, the GAO, while noting that savings are possible from public-private competitions, cautioned that DoD:

A) Overstates possible savings;

> *"(GAO has) urged caution regarding the magnitude of savings likely to be achieved."*

B) Has no proof that promised savings are actually realized;

> *"In March 1997, we reported that prior savings estimates were based on initial savings estimates from competitive sourcing competitions, but that expected savings can change over time with changes in scope of work or mandated work changes."*

C) Has already plucked the lowest-hanging fruit from the tree;

> *"Further, we noted that continuing budget and personnel reductions could make it difficult to sustain the levels of previously projected savings."*

D) Is apparently incapable of coming up on its own with a mechanism for determining whether its bracing regimen of public-private competitions actually works;

> *According to GAO, entries in the Commercial Activities Management Information System (CAMIS) "are not modified and are being used continuously without updating the data to reflect changes in or even termination of contracts. DoD officials have noted that they could not*

determine from the CAMIS data if savings were actually being realized from the A-76 competitions. Our work continues to show important limitations in CAMIS data....During our review, we found that CAMIS did not always record completed competitions and sometimes incorrectly indicated that competitions were completed where they had not yet begun or were still underway. We also identified where savings data recorded for completed competitions were incorrect based on other data provided by the applicable service."

E) Probably doesn't even have enough staff to conduct competitions, let alone determine if they're actually working.

"While none of the services has yet fully determined the staff resources necessary to implement its competition program, some service officials have expressed concern about their ability to provide sufficient existing in-house staff as the number of ongoing studies increases and the potential effect on other mission requirements of devoting available resources to meet competition needs. Some officials have already begun to express concern about the adequacy of their resources to initiate and complete ongoing competitions and to deal with other ongoing mission responsibilities. Officials at one Army command stated that they have finite resources to accomplish their overall missions and tasks. If one mission, such as performing competitions, is given command priority, resources are shifted to meet that priority, and other tasks or activities may be delayed or not performed. The large increase in the number of competitions expected to be ongoing in fiscal years 1999 and 2000 is likely to greatly increase resource requirements."

As even senior Pentagon officials will admit privately to the media, the results of DoD's initial A-76 competitions are positively underwhelming. According to an April 6, 1998, Inside the Navy article, the service's

"ambitious (savings) goal (from public-private competitions) will not be achieved and the Navy literally will have to pay for making rosy savings predictions. 'Everybody knows this is a problem,' one military source said. 'We make these grandiose assumptions three or four years ago, and now we have to pay for them.' According to one Pentagon source, the Navy predicted it could save up to $1.2 billion per year, once the jobs were competed, but it will be difficult to reach that level. 'We really don't know

> *how much the savings are,' the source said. 'We know we've overestimated them. We're going to muddle through.' The source said the service met its goals the first year, FY-97, by making the easy, obvious reductions, but this year the service has met only half of its goal. In upcoming years, the task may become even more difficult, with only a quarter of the predicted savings so far identified. If the service cannot liquidate those positions and generate savings, it will be forced to rob procurement or operations and maintenance accounts to make up the balance."*

And the situation is getting worse, not better. A March 10 report from the DoD Inspector General (IG) gave the department's service contracting crusade the worst grade ever. The IG looked at 105 Department of Defense (DoD) contracts worth $6.7 billion. Every single one of them had some type of oversight problem. During his testimony before the House Government Management Subcommittee, Mr. Robert J. Lieberman, the Assistant Inspector General for Auditing, confessed that he and his experienced staff were "startled by the audit results, because we found problems with every one of the 105 actions. In nearly ten years of managing the audit office of the IG, I do not ever recall finding problems on every item in that large a sample of transactions, programs or data." (Mr. Lieberman later said that he had signed 2,000 different audits during his tenure.) The report states that the collective dereliction of duty on the part of DoD with respect to service contracting "clearly left the government vulnerable -- and sometimes at the mercy of the contractor."

Here are some of the general findings about problems in tracking costs and savings from contracting out and privatization:

- 77 percent—inadequate government cost estimates;
- 69 percent—inadequate use of prior history to define requirements;
- 68 percent—inadequate price negotiation memoranda;
- 67 percent—inadequate contract surveillance;
- 60 percent—inadequate competition;
- 57 percent—cursory technical reviews; and

- 25 percent—lack of cost control.

And here are some of the specific findings:

- The Army contracted with Raytheon for 39 years to service HAWK missile system but it never bothered to establish a fixed price for the contract. Instead, the Army awarded Raytheon a cost-plus-fixed-fee deal, which allows the contract to go above the expected price.

- A government contracting office had $8 million worth of taxpayer dollars to spend on a contract but only found $5.8 million in costs. The Pentagon decided to put the extra $2.2 million in the contract anyway.

- A National Guard contract was estimated at $2.2 million, a figure that copied the $2.1 million application from a contractor. A review discovered that the real costs only totaled $1.2 million.

The DoD official on the same panel admitted that the Pentagon could not take issue with the IG's findings.

Surely it's not too much to ask that the Administration and agency managers be required to prove that A-76 competitions and contracting out and privatization generally will actually achieve real and significant savings before throwing public employees and their families out on the street. Moreover, it is imperative that these real and significant savings persist over the long-term. There is considerable anecdotal evidence to suggest that whatever initial savings are generated from contracting out dissipate by the time the contract is renewed since there is no public-private competition and precious little private-private competition, thus leaving taxpayers at the mercy of sole-source contractors.

In 1998, the Administration agreed with AFGE that it would require agencies to develop tracking systems to monitor the costs and savings of contracting out. As a senior OMB official admitted when he made that commitment on behalf of the Administration, it is "indefensible" that there should be an inventory of work performed by public employees through the FAIR Act but no similar inventory for work performed by contractor employees, even though two-thirds of the federal government is already contracted out. Although more than a year has passed, no progress whatsoever has been made toward establishing that contractor inventory.

2. The Failure to Subject Contractors to the Same Level of Competition as Public Employees

Agencies should be required to contract in work for performance if in-house staff will be more effective, more efficient, and more reliable than contractors. Virtually no work is ever contracted *in* so it can once again be performed by experienced and reliable public employees. If public-private competition is appropriate for work performed by public employees, then it is just as appropriate for work performed by contractors. If only work performed by public employees is subjected to public-private competition, then the Administration and agency management are simply replacing public employees with contractor employees, rather than trying to make government more efficient.

The encouragement of contracting in would keep contractors from forcing taxpayers to swallow costly post-award mark-ups. Usually, there is very little competition among contractors for work, especially when the initial contract comes up for renewal. Columbia University Professor Elliot Sclar, who has testified before the Congress on contracting out and privatization, has described service contracting as a

> *"...dynamic political process that typically moves from a competitive market structure towards a monopolistic one. Even if the first round of bidding is genuinely competitive, the very act of bestowing a contract transforms the relative market power between the one buyer and the few sellers into a bilateral negotiation between the government and the winning bidder.*
>
> *The simple textbook models of competition so prized by privatization advocates provide no guidance to what actually occurs when public services are contracted. Over time, the winning contractor moves to secure permanent control of the `turf' by addressing threats of potential returns to (contracting in) or from other outside competitors. To counteract the former threat, they move to neutralize competition, most typically through mergers and market consolidation among contractors. This trend helps to explain why two-thirds of all public service contracts at any time are sole-source affairs...."*

Agencies should be required to keep track of when their contracts come up for renewal, so that managers can give due consideration to the option of contracting in certain services if in-house performance would be more effective, more efficient, and more reliable than private sector performance.

The Administration deserves credit for working with AFGE to ensure that in the last revision to OMB Circular A-76, the regulations governing public-private competition for commercial activities, would allow agencies to bring work back in-house. As is the case when work is contracted out, public employees are required to submit a bid at least 10% cheaper than the contractor's in order to convert work to in-house performance.

The Department of Energy (DoE) is a notorious example of what happens when an agency becomes so dependent on sole-source contractors because it can provide no in-house competition when expensive contracts come up for renewal. In 1994, DoE officials became alarmed at skyrocketing service contract costs. Noting that only seven contracts had been put up for bid when an incumbent contractor wanted to stay on, DoE officials put their collective foot down and said that service contracts would no longer be automatically renewed.

What was the response from DoE contractors? According to *The Washington Post*, "the `specter of competition' led some contractors, including Westinghouse Electric Corp...to offer to reduce costs by 15 percent to 20 percent `If implied competition will do that, imagine what real competition will do,' quipped a DoE official."

This could have been a success story—recompeting contracts seemed so simple a solution. But by 1997 it was clear that this reform effort was not going to have a happy ending. According to the General Accounting Office (GAO), DoE continues to make noncompetitive awards for management and operating (M&O) contracts despite having changed its policy and adopted competitive contract awards as the standards for these contracts. "Of 24 M&O contracts awarded between July 1994 and August 1996, DoE awarded 16 noncompetitively. Also, DoE decided not to compete three major contracts before it renegotiated the terms of the contract renewal—a practice that is contrary to contract reform."

As might be expected, contractors view the prospect of having to compete for their work against public employees with fear and dread. Sure, they leap at opportunities to take work away from public employees. But contractors quickly recoil when it's their lucrative contracts with the government that are finally subjected to public-private competition. In fact, most versions of the contractors' infamous Freedom From Government Competition Act included implicit and explicit prohibitions against public employees competing with contractors for services already contracted out.

Because DoE has given up the capability to do the work itself and will not reconstitute that capability in-house so that work might be contracted in, taxpayers are paying far more than they should for dozens of multi-billion dollar service contracts. Obviously, DoE's contractors have not been shy about using their influence in the Administration and in the Congress to make sure that their sole-source arrangements are left undisturbed. Contractors for other agencies have also been almost completely successful in preventing the use of contracting in throughout the rest of the government. Administration officials are unwilling to reveal how much work has been contracted in, but observers insist that the amount is small, very small.

In response to a letter from AFGE National President Harnage which asked the Administration to work with this union to remove all legislative and regulatory obstacles to contracting in, a senior OMB official wrote,

> *"I agree with you that we should ask federal managers to. . . consider the potential benefits of converting work from contract to in-house performance...OMB will encourage agencies to identify opportunities for the conversion of work from contract to in-house performance..."*

Unfortunately, the encouragement necessary to inspire agency managers to take contracts away from poorly performing but politically well-connected businesses and reassign the work to experienced and reliable public employees has not been forthcoming. In the Administration's fiscal year 2000 budget, a section was devoted to public-private competition in which DoD's plan to compete the jobs of at least 230,000 public employees under OMB Circular A-76 was endorsed. But no mention was made of competing any work performed by contractors. Since the contractor workforce is twice as large as the federal government's public employee workforce, one could argue that if 230,000 DoD public employee jobs are to be competed then the Pentagon should also compete the jobs of 460,000 of its contractor employees.

Fortunately, thanks to this subcommittee, last year's defense appropriations conference report requires DoD to document just how infrequently work has been contracted in, identify barriers to contracting in, and provide recommendations for maximizing the possibility of effective competition for work that has already been contracted out.

If the contractor workforce is 4,000,000-strong (according to the Brookings Institute), if public employees win 50% of all OMB Circular A-76 competitions (according to the Center for Naval Analysis), and those wins translate roughly into 50% of the jobs (according to OMB), there are 2,000,000 jobs in the federal government's contractor

workforce that could be performed more efficiently by public employees. Only when agencies are required to systematically keep track of what their contracts actually cost the American taxpayers as well as when their contracts come up for renewal, and then put mechanisms in place for contracting in work will agencies and contractors finally be accountable to the Congress and America's taxpayers. Without the real and viable option of contracting in, the emphasis of agency managers on public-private competition is nothing more than a rationale for replacing public employees with contractor employees.

3. The Failure to Shine the Light of Truth on the Shadow Workforce

The Administration has made no progress towards fulfilling its almost two-year old objective of documenting the size of the contractor workforce, often referred to as the "shadow workforce" because it has historically been shrouded in such mystery. Failing to count the contractor workforce is unfair to public employees (about whom meticulous statistics are kept), encourages indiscriminate contracting out, and stifles important debates about what government is and what it should do. The House and Senate Armed Services Committees agreed, over the Pentagon's strenuous objections, to require a count of DoD's contractor workforce in last year's defense authorization conference report. A similar requirement was included in report language in last year's Senate defense appropriations bill.

"The government knows virtually nothing about its shadow"—the ever-expanding number of politically well-connected contractors who are taking more and more work from public employees"—writes Paul Light, who has testified before the House Government Management Subcommittee, of the Brookings Institution, in The True Size of Government. "Neither the Office of Personnel Management nor the Office of Management and Budget (OMB) has ever counted the full-time equivalent non-federal workforce, let alone analyzed its appropriateness."

A former senior OMB official once said when asked about the size of the contractor workforce, "You can use any number you want. . . But whatever it is...it is a lot of people." Indeed, it is. Light's research indicates that the contractor workforce is approximately 4 million employees. In contrast, there are just over 1.8 million public employees. This means the contractor workforce has grown to at least twice the size of the federal government's in-house staff.

Although the Administration has directed agencies to rely more on contractors than ever before, the shadow workforce has been built up over many, many years. As Light has

observed, the shadow workforce reflects in large part "decades of personnel ceilings, hiring limits and unrelenting pressure to do more with less. Under pressure to create a government that looks smaller and delivers at least as much of everything the public wants, federal departments and agencies did what comes naturally. They pushed jobs outward and downward into a vast shadow that is mostly outside the public's consciousness." Administration officials have long dismissed the need to document the size of the contractor workforce, both at the micro (i.e., number of workers employed under specific contracts) and macro (i.e., number of contractor workers employed agency-wide and government-wide) levels. "Numbers are not important," they would insist blithely. "What really matters is how well the job is done." In an ideal world, those Administration officials would be right. But we don't live in an ideal world—especially when it comes to federal service contracting.

In documents ranging from the federal budget to the OMB Circular A-76 inventory to the FAIR Act, detailed information is kept on the number of public employees, at both the micro and macro levels. Clearly, Administration officials, like those who came before them, believe it is very important to maintain meticulous records about the size of the federal government's in-house workforce. However, they have historically professed no interest whatsoever in keeping the same statistics about the contractor workforce.

The government's ability to easily quantify its in-house workforce has put public employees at a severe disadvantage vis-a-vis their contractor counterparts. Put bluntly, if the Administration and the Congress know who you are and where you are, they can hurt you.

- In the Federal Workforce Restructuring Act, for example, the President and the Congress arbitrarily slashed the number of civil servants by 275,000—without also cutting by the same proportion all of the services performed by public employees. As a result, much work performed by public employees has simply been contracted out—often at higher costs—because of insufficient in-house staff. This political expediency creates an illusion that plays well in the polls but does nothing to improve the effectiveness of services or make the government more accountable to the American people.

- The use of numbers to "manage" the federal workforce doesn't stop there; in fact, the practice has grown even worse. Today, the extensive (and sometimes illegal) use of arbitrary personnel ceilings forces agencies to contract out work, often at higher costs, because

they are either forced to fire or forbidden from hiring the staff needed to perform the work in-house.

- Moreover, DoD has arbitrarily decided to compete the jobs of at least 230,000 public employees under OMB Circular A-76. If DoD officials were actually interested in competing certain types of work, they'd just list the services to be placed under scrutiny. However, because DoD's quota refers to the number of employees to be competed, rather than the services to be put up for bid, the Pentagon's drastically expanded use of OMB Circular A-76 is just another attempt to replace public employees with contractor employees.

Contrary to the assertions of Administration officials, numbers do count—at least for public employees. In order to ensure equity, the contractor workforce must be documented in a similar manner.

Of course, the importance of documenting the size of the contractor workforce is not just that it puts contractor employees at the same disadvantage in the budget process as public employees. Light concludes that, "More information about the size of the contractor workforce would also influence agencies' contracting out decisions." For example, the Army has determined after a comprehensive review of its records for fiscal year 1996 that it employed 269,000 contractor employees. Prior to conducting the research that went into the report, the Army had assumed it employed only 47,000 contractor employees. Analysts pointed out that the failure of the Army to "take full credit for (its) level of contracting... could result in driving increased civilian manpower cuts that may compromise governmental control and erode critical technical and readiness capability in" important functions.

We cannot talk intelligently about what government does and what it needs to do without an accurate head count of the contractor workforce. As Light argues,

> *"It is impossible to have an honest debate about the role of government in society if the measurements only include part of the government. The government also is increasingly reliant on non-federal workers to produce goods and services that used to be delivered in-house. Not only does the shadow workforce create an illusion about the true size of government, it may create an illusion of merit as jobs inside the government are held to strict merit standards while jobs under contract are not. It may also create illusions of capacity and accountability as agencies pretend they know*

> *enough to oversee their shadow workforce when, in fact, they no longer have the ability to distinguish good product from bad...*
>
> *"Expanding the headcount (to include, among others, contractor employees) would force Congress and the President to confront a series of difficult questions. Instead of engaging in an endless effort to keep the civil service looking small, they would have to ask just how many (employees working directly and indirectly for the government) should be kept in-house and at what cost. One can easily argue that the answers would lead to a larger, not smaller, civil service, or at least a civil service very differently configured."*

In July 1998, the Administration finally decided to document the size of the federal government's entire contractor workforce. An article in the October 7, 1998, edition of The Washington Times ("Workers targeted for count: U.S. seeks number of private employees") even discussed that commitment. According to the article,

> *"The Clinton administration has reacted to criticism of its downsizing policies by planning to count how many nongovernment employees are under private contract to perform federal work...Administration leaders say they are committed to collecting the data soon so that manpower decisions—such as whether to privatize other federal jobs—can be made with more accurate information. 'It is a done deal as far as I am concerned,' said G. Edward DeSeve, acting deputy director for management at the Office of Management and Budget."*

That objective was restated in writing by the Administration on February 2, 1999, when a senior OMB official wrote that "(the Administration) will work with AFGE and other interested parties to...estimate the number of contract employees, in the aggregate, by agency and function."

However, no progress whatsoever has been made towards fulfilling that commitment. The Department of the Army, however, is to be commended for bucking the DoD party line and daring to shine the light of truth on the shadow workforce. In an interim rule published in *Federal Register* on March 15, the Army boldly declared its intention, subject to public comment, to establish a contractor inventory that would, among other things, allow for a reliable determination of the size of its ever-growing contractor workforce. AFGE commends the Army for acknowledging both that such information is critically important to policymakers and lawmakers alike and that it can be collected with

a minimum of expense. The Army's promising effort should serve as the basis for the long-promised, government-wide inventory of contracts and contractor employees.

4. Failure to Prevent Work from Being Contracted Out Without Public-Private Competition

Although generating much attention, OMB Circular A-76 is really a sideshow. Most government work that is performed by contractors is never subject to public-private competition. Either the work has never been performed by public employees and was simply given to contractors from the very beginning ("new starts") or it was started in-house and then transferred to the private sector without giving public employees any opportunity to compete in defense of their jobs. That is, despite all of the talk from Administration officials about the importance of public-private competition, most contractors obtain their lucrative deals without ever having to compete against public employees.

Currently, most work is contracted out without public-private competition by DoD—the agency often held out as the champion of OMB Circular A-76. Although DoD contracts out in excess of $60 billion annually, public employees have no chance of competing for almost all of that work—even with the Pentagon's increased reliance on the circular. For example, according to an Army study, only 16,000 contractor jobs out of the service's entire contractor workforce of 269,000 were competed through OMB Circular A-76.

Various rationales are offered for not allowing public employees to compete. Work is arbitrarily defined by Pentagon officials as "new" or "reconfigured", thus negating rules that require public-private competition. As is happening on DoD base after DoD base, work is arbitrarily split up into functions of less than ten employees in order to fall below the threshold that normally mandates A-76 competitions. Sometimes, the work is not deemed subject to public-private competition because it is being "privatized"—on the pretext that the government "is getting out of the business". However, that misses the point. DoD may decide that it will no longer perform work in-house, but that doesn't mean it no longer needs the work. In fact, the work will continue to be done for DoD—but by contractors, not public employees. Since the taxpayers will still be paying for that work to be done for DoD, whether the work is contracted out or privatized, why shouldn't they at least have the security of knowing contractors have to prove that they can perform the work more efficiently, more effectively, and more reliably than public employees? As GAO reported earlier this year, DoD managers have been told to look for waivers and exceptions to the use of A-76 whenever possible.

This very subcommittee could close off an option that Air Force managers are using to contract out work without any public-private competition. Using an obscure loophole in a perennial general provision in the defense appropriations bill, the Air Force is contracting out more than 600 jobs without any public-private competitions, in at least two different locations (Kirtland, NM, and Eglin, FL), to a Native American firm in Alaska that has no experience at performing the work in question. The general provision to which I refer allows such contracting out to any firm that claims to be "under 51 percent Native American ownership." Although DoD is ostensibly striving to reduce infrastructure costs, the installation has scrapped an OMB Circular A-76 competition in favor of a non-competitive, sole-source arrangement with a firm from out-of-state. Is a sole-source arrangement likely to generate higher savings than an A-76 competition or a strategic sourcing initiative? Of course not. Is it fair to prevent the hard-working employees at Kirtland and Eglin from even defending their jobs? Of course not. Is the Air Force required to use the Native American set-aside provision? Of course not. Meanwhile, unless the Air Force reverses its decision, hundreds of hard-working Air Force employees will soon lose their jobs without any demonstration that the contractor is a better service provider.

A major reason for preventing public employees from competing for work is the use of arbitrary personnel ceilings which prevent agencies from hiring or forces the firing of the necessary public employees. With no in-house staff to perform the work, agencies simply contract it out—often at higher costs. Agencies should be required to manage their workforces by missions and budgets, not by arbitrary numbers.

The Administration admits that management by arbitrary personnel ceilings is a widespread problem. According to OMB, several agencies—including the Departments of Agriculture, Health & Human Services, Housing & Urban Development, State, Education, and Treasury, as well as the Environmental Protection Agency—said that they each could have saved millions of dollars by performing work with public employees instead of contractors but did not do so because they were forced to work under arbitrary personnel ceilings. GAO has also reported that agencies sometimes manage their in-house workforces by personnel ceilings set by OMB that "frequently have the effect of encouraging agencies to contract out regardless of the results of cost, policy, or high-risk studies."

The problem is particularly bad at DoD. In 1995, the personnel directors of the four branches of the Armed Forces told the Congress that arbitrary personnel ceilings—not workload, cost, or readiness concerns—were forcing them to send work to contractors that could be performed more cheaply in-house. GAO reported in 1997 that a "senior

command official in the Army stated that the need to reduce civilian positions is greater than the need to save money". An earlier report by the DoD Inspector General noted that the goal of downsizing the public workforce is widely perceived as placing the DoD in a position of having to contract for services regardless of what is more desirable and cost-effective. In mid-1998, the Vice President's staff confirmed that the management of DoD public employees by arbitrary personnel ceilings was still taking place. This February, the Administration said, in writing, that it would provide guidance to agencies to address this serious problem. However, no such direction has been forthcoming.

Last year, the House and Senate Appropriations Committees included report language in both of their versions of the Treasury-Postal Appropriations bills that required OMB to provide the necessary guidance to agencies to stop managing their public employees by arbitrary personnel ceilings. OMB responded by indicating that current guidance was sufficient and that no further guidance would be forthcoming.

5. The Failure to Account for the Extent the Federal Government's Contracting Out Undercuts Public Employees on their Wages and Benefits

If there is little information about the size of the contractor workforce, there is virtually no information about how contractors treat their workforce. It is commonly accepted in the private sector and elsewhere in the public sector that to the extent savings are generated in certain circumstances through contracting out such savings essentially come from contractors short-changing their employees on wages, benefits, and job security.

A survey conducted by GAO in 1985 of public employees who were involuntarily separated after their jobs were contracted out revealed that over half "said that they had received lower wages, and most reported that contractor benefits were not as good as their government benefits".

Last year, GAO was asked to study the wages and benefits of contractor employees. However, GAO auditors came back empty-handed because of inadequate access to contractor records. To be blunt, contractors simply refused to cooperate with GAO. The Administration, which could require contractors to provide such access to GAO, has already rejected a request to conduct a similar study.

It is outrageous that Administration officials and more than a few lawmakers—despite their words of support for working Americans—continue to allow contractors to take work away from public employees simply because, in many cases, they pay their

workers less and provide them with inferior benefits. When the budget is in surplus, the economy's booming, and the stock market is soaring, how can anyone justify replacing working and middle class Americans with contingent workers who are forced to scrape by with so much less?

Unfortunately, much-needed corrective action is unlikely to be undertaken until the spotlight of publicity is turned on the contractor workforce. It's hard to generate the political momentum to help people who are hidden in the shadows. The millions of men and women who constitute the contractor workforce will never be treated fairly until the federal government is at least required to begin documenting the size of that contractor workforce.

CONCLUSION

We have tried to work with the Administration to correct the problems and inequities that consistently undermine the efficacy and fairness of its contracting out effort. The Administration has agreed to develop a contractor inventory to keep track of the costs and savings from contracting out. The Administration has agreed to encourage contracting in. The Administration has agreed to determine the size of the contractor workforce. The Administration has agreed to discourage contracting out without public-private competition. And the Administration has agreed to discourage agencies from managing the public employee part of its workforce by arbitrary personnel ceilings. Unfortunately, no progress whatsoever has been made towards translating those intentions into actions. Moreover, we have every reason to believe that work continues to be contracted out in order to undercut public employees on their wages and benefits.

Those failures have left AFGE with no choice but to seek a temporary suspension of federal service contracting until a contractor inventory has been established to track the costs and consequences of contracting out, agencies emphasize contracting in to the same extent they emphasize contracting out, agencies stop managing public employees by arbitrary personnel ceilings that prevent us from competing for work, agencies stop contracting out work without giving public employees opportunities to defend their jobs, and there is a better understanding of the extent to which contracting out simply replaces working and middle class Americans in the public employee part of the workforce with a poorly-paid, poorly-benefitted contingent workforce. Until then, it is time we stopped wasting America's money on privatization.

On February 29, the Truthfulness, Responsibility and Accountability in Contracting (TRAC) Act was introduced in the House of Representatives to force agencies to correct

longstanding problems and inequities in its contracting out and privatization processes. That legislation has more than 110 cosponsors, including many lawmakers who serve on the House Government Reform and Oversight Committee. AFGE urges other lawmakers to join this bipartisan effort to benefit both taxpayers and customers.

Finally, it must be noted that it would clearly benefit the Subcommittee's deliberations if AFGE, the leading federal employees union, were invited to participate in future hearings.

