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THE NEXT STEPS IN SERVICES ACQUISITION REFORM: LEARNING FROM THE PAST, PREPARING FOR THE FUTURE

HEARING

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY AND PROCUREMENT POLICY

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

MAY 22, 2001

Serial No. 107–39

Printed for the use of the Committee on Government Reform

Available via the World Wide Web: http://www.gpo.gov/congress/house
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U.S. GOVERNMENT PRINTING OFFICE

77–329 PDF WASHINGTON : 2002

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THE NEXT STEPS IN SERVICES ACQUISITION REFORM: LEARNING FROM THE PAST, PREPARING FOR THE FUTURE

TUESDAY, MAY 22, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TECHNOLOGY AND PROCUREMENT POLICY,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:01 a.m., in room 2154, Rayburn House Office Building, Hon. Thomas M. Davis of Virginia (chairman of the subcommittee) presiding.

Present: Representatives Thomas Davis of Virginia, Ose, Schrock, and Turner.

Staff present: Melissa Wojciak, staff director; Amy Heerink, chief counsel; Victoria Proctor, professional staff member; James DeChene, clerk; Trey Henderson, minority counsel; Mark Stephenson, minority professional staff member; and Jean Gosa, minority assistant clerk.

Mr. THOMAS M. DAVIS OF VIRGINIA. If we could have everyone take their seats, since we have opening statements, we will begin it now so that we can move on.

Good morning and welcome to today's oversight hearing on services acquisition reform. As many of you know, in the early to mid-nineties, Congress and the administration worked together to reform the way government acquires goods and services. This collaboration resulted in landmark legislation that included the Federal Acquisition Streamlining Act of 1994 and the Clinger-Cohen Act of 1996, along with significant regulatory revisions such as the rewrite of the FAR Part 15. Many of you at this hearing today worked with me and many others in Congress to achieve reforms that truly revolutionized the way government does business with the private sector. Today, I intend to see how those significant reform efforts have been implemented government-wide and what next steps we need to take to further streamline government acquisition of services.

Over the past decade, the growth of service contracting has largely matched the increase of service contracting in the private sector. Unfortunately, there are many indications that the way government contracts for services has not matched the practices of the private sector. While acquisition reform touched on service contracting, it was not the emphasis of those efforts. Today, in light of the growth of service contracting, I will re-evaluate the need for

a Services Acquisition Reform Act [SARA]. I believe this subcommittee needs to determine what can and should be done legislatively to promote greater utilization of commercial best practices, increased cross-agency acquisitions along with enhanced cross-agency information sharing, share-in-savings contracting, and acquisition work force training.

In fiscal year 1990, the government spent $70 billion on service contracts. That number has grown to over $87 billion in fiscal year 2000. That number represents an increase of 24 percent over the past 10 years. Service contracts now represent 43 percent of total government purchasing. This is larger than any other category of government purchasing. Additionally, contracting for information technology services has grown from $3.7 billion in fiscal year 1990 to $13.4 billion in fiscal year 2000, with that number only expected to increase as the Federal Government moves to transfer itself to a more citizen-centric, streamlined service provider.

The rise in service contracting has also coincided with several trends that suggest sufficient contract management is not occurring. The General Accounting Office has put contract management on its high risk list for both the Department of Defense and the Department of Energy. Collectively, these two agencies make 75 percent of the government's total purchases. The challenge of contract management is only heightened by the drastic reductions in the acquisition work force that appear likely to continue over the next several years, as 50 percent of this work force becomes eligible to retire. In no other area is the need for strategic human capital management so critically necessary. As we ask the acquisition work force to play a larger role in increasingly complex procurements and understand how to be program managers in addition to contracting officers, we have to determine how to give this already strained work force the training and the tools necessary to succeed.

Moreover, it is clear that innovative contracting options are largely underutilized by the acquisition work force due to lack of training and resources. Although the Office of Federal Procurement Policy has stressed the importance of performance-based contracting since 1991, the Procurement Executives Council recently recommended that agencies achieve a goal of 10 percent performance-based contracting in fiscal year 2001. While the value of this type of contracting is widely recognized in the commercial sector for achieving greater efficiency, it is not clear that government yet understands how to write this type of performance statement or is adequately training acquisition personnel to use these types of contract vehicles.

Training and understanding of commercial sector processes is crucial to the success of performance-based contracting because we are tasking a work force we have routinely asked to be risk averse to move in an entirely new direction and away from contracting solely based on the regulations included in the FAR. One of the main objectives of this hearing will be to determine what can be done to ensure government is effectively utilizing performance-based statements of objectives.

I understand, after meeting with the GAO, that we do not have an understanding of how agencies are utilizing performance-based contracting. Additionally, we do not know if agencies have devel-

oped a set of best practices and if that information is being shared. We also do not know if agencies are working toward identifying how and when it is most appropriate to do horizontal acquisitions. I believe that part of developing a legislative package for acquisition reform includes having better measurements in these areas. Today, I would like to request that the GAO develop a report for this subcommittee that examines how agencies are performing in those areas.

While there are a number of other initiatives that should be considered for SARA, there are two that I believe deserve immediate consideration. First, I would like to explore what needs to be done to increase the use of share-in-savings contracts. Section 5311 of the Clinger-Cohen Act authorized OFPP to conduct a pilot share-in-savings IT acquisition program. Unfortunately, that program has not been utilized. I believe this type of contracting, which is frequently used in the private sector, holds great benefits for government. The Department of Education has just entered into a share-in-savings contract for information technology modernization that has the potential to revolutionize the way it does business. Other agencies could and should do the same.

Second, I continue to believe that we are not allowing Federal, State, and local governments the opportunity to use a good government solution. I intend to revisit cooperative purchasing off the GSA schedules for IT products and services. Cooperative purchasing allows every level of government to leverage purchasing power to ensure the taxpayers' dollars are spent effectively and efficiently. I look forward to hearing from today's witnesses on our next steps for acquisition reform.

Now today the subcommittee is going to hear testimony from David Cooper, GAO; Deputy Assistant Secretary David Oliver from the Department of Defense; David Drabkin from GSA; Dr. Steve Kelman from the John F. Kennedy School of Government at Harvard University.

In the continued spirit of bipartisanship, I would like to note for the record that Steve and I recently went up against Harvard students in a rock-and-roll sixties trivia contest; with the same effort we brought to procurement reform, we won. [Laughter.]

Mr. THOMAS M. DAVIS OF VIRGINIA. Mr. Michael Mutek from Raytheon Technical Services, testifying on behalf of the Professional Services Council, and Mr. Mark Wagner of Johnson Controls, testifying on behalf of the Contract Services Association.

[The prepared statement of Hon. Thomas M. Davis follows:]

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Opening Statement of Chairman Tom Davis
Hearing on "The Next Steps in Services Acquisition Reform: Learning from the Past, Preparing for the Future"
Subcommittee on Technology and Procurement Policy
May 22, 2001 at 10:00 am
2154 Rayburn House Office Building

Good morning and welcome to today's oversight hearing on services acquisition reform. As many of you know, in the early to mid-nineties, Congress and the Administration worked together to reform the way government acquires goods and services. This collaboration resulted in landmark legislation that included the Federal Acquisition Streamlining Act of 1994, and the Clinger-Cohen Act of 1996, along with significant regulatory revisions such as the rewrite of the FAR Part 15. Many of you at this hearing today worked with me and many others in Congress to achieve reforms that truly revolutionized the way government does business with the private sector. **Today, I intend to see how those significant reform efforts have been implemented governmentwide and what next steps we need to take to further streamline government acquisition of services.**

Over the past decade, the growth of service contracting has largely matched the increase of service contracting in the private sector. **Unfortunately, there are many indications that the way government contracts for services has not matched the practices of the private sector.** While acquisition reform touched on service contracting, it was not the emphasis of those efforts. Today, in light of the growth of service contracting, I will evaluate the need for a Services Acquisition Reform Act–SARA. I believe the Subcommittee needs to determine what can and should be done **legislatively** to promote greater utilization of commercial best practices, increased cross-agency acquisitions along with enhanced cross-agency information sharing, share-in-savings contracting, and acquisition workforce training.

In fiscal year 1990, the government spent $70 billion on service contracts. That number has grown to over $87 billion in fiscal year 2000. That number represent an increase of twenty-four percent in the past ten years. Service contracts now represent forty-three percent of total government purchasing. This is larger than any other category of government purchasing. Additionally, contracting

for information technology services has grown from $3.7 billion in FY1990 to $13.4 billion in FY2000, with that number only expected to increase as the federal government moves to transform itself to a more citizen-centric, streamlined service provider.

The rise in service contracting has also coincided with several trends that suggest sufficient contract management is not occurring. The General Accounting Office has put contract management on its' high risk list for both the Department of Defense and the Department of Energy. Collectively, these two agencies make 75 percent of the government's total purchases. The challenge of contract management is only heightened by the drastic reductions in the acquisition workforce that appear likely to continue over the next several years, as fifty percent of the current workforce becomes eligible to retire. In no other area is the need for strategic human capital management so critically necessary. As we ask the acquisition workforce to play a larger role in increasingly complex procurements and understand how to be program managers in addition to contracting officers, we must also determine how to give this already strained workforce the training and tools necessary to succeed.

Moreover, it is clear that innovative contracting options are largely underutilized by the acquisition workforce due to lack of training and resources. Although the Office of Federal Procurement Policy has stressed the importance of performance-based contracting since 1991, the Procurement Executive's Council recently recommended that agencies achieve a goal of ten percent performance-based contracting in fiscal year 2001. While the value of this type of contracting is widely recognized in the commercial sector for achieving greater efficiency, it is not clear that government yet understands how to write this type of performance statement or is adequately training acquisition personnel to use these types of contract vehicles. Training and understanding of commercial sector processes is crucial to the success of performance-based contracting because we are tasking a workforce we have routinely asked to be risk adverse to move in an entirely new direction and away from contracting solely based on the regulations included in the FAR. **One of the main objectives of this hearing will be to determine what can be done to ensure government is effectively utilizing performance-based statements of objectives.**

I understand after meeting with the GAO, that we do not have an understanding of how agencies are utilizing performance-based contracting. Additionally, we do not know if agencies have developed a set of best practices and if that information is being shared. We also do not know if agencies are working towards identifying how and when it is most appropriate to do horizontal acquisitions. I believe that part of developing a legislative package for acquisition reform includes having better measurements in these areas. **Today, I would like to request that the GAO develop a report for this Subcommittee that examines how agencies are performing in those areas.**

While there are a number of other initiatives that should be considered for SARA, there are two that I believe deserve immediate consideration. First, I would like to explore what needs to be done to increase the use of share-in-savings contracts. Section 5311 of the Clinger-Cohen Act authorized OFPP to conduct a pilot share-in-savings IT acquisition program. Unfortunately, that program has not been utilized. I believe this type of contracting--which is frequently used in the private sector--holds great benefits for government. The Department of Education has just entered into a share-in-savings

contract for information technology modernization that has the potential to revolutionize the way it does business. Other agencies could and should do the same. Secondly, I continue to believe that we are not allowing federal, state, and local governments the opportunity to use a good government solution. I intend to revisit cooperative purchasing off the GSA schedules for information technology products and services. Cooperative purchasing allows every level of government to leverage purchasing power to ensure the taxpayers' dollars are spent effectively and efficiently. I look forward to hearing from today's witnesses on our next steps for acquisition reform.

Mr. THOMAS M. DAVIS OF VIRGINIA. I now yield to Congressman Turner for his opening statement.

Mr. TURNER. Thank you, Mr. Chairman.

The Federal Government is the largest purchaser of goods and services in the world, and in just the past fiscal year the U.S. Government contracted for $204 billion in goods and services. Unfortunately, we know Federal procurement is an area which historically has been prone to waste, fraud, and abuse. And the difference between doing it right and doing it wrong can literally be billions of taxpayer dollars. With this in mind, it is of the utmost importance that we ensure that the Federal Government procurement system is as efficient and credible as possible, and I commend the chairman for the emphasis placed upon this subject by holding this hearing this morning.

Federal contracting has seen extraordinary changes in the past decade. The end of the cold war greatly reduced our spending requirements and changed our outlook on procurement policy. In the early 1990's, in an effort to adjust to the new marketplace, the Congress and the executive branch began a comprehensive statutory and regulatory overhaul of the Federal acquisition system. The result has been a shift in Federal spending patterns, a decline in the Federal work force, a simplification of acquisition rules, and the introduction of new contracting vehicles and techniques.

Despite the progress that we have made to date, there are still concerns that acquisition reform is being delayed. This delay is due to problems that are longstanding, as well as to some problems that are of a more recent vintage. In particular, the concerns regarding human capital challenges, the rapid growth of service and IT contracting, poor oversight of contractor performance, and the inability of the Federal Government to adopt innovative contracting vehicles have given us good reasons to have this hearing today.

Again, I thank the chairman for his focus on this issue. I look forward to hearing from all of our witnesses. The purpose of the hearing is to investigate what needs to be done, so that agencies and their managers will have the tools necessary to achieve true reform. While we have seen some successes, obviously, there are many challenges that still need to be overcome to ensure that the taxpayers are getting the best value for every procurement dollar.

Thank you, Mr. Chairman.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you, Mr. Turner.

Mr. Schrock, any statement?

Mr. SCHROCK. Mr. Chairman, no, I do not have a statement. I guess I would like to hear more about that rock-and-roll comment, but being politically correct, I won't do that. I am just looking forward to hearing the testimony today. Thanks for being here.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much.

I am going to call our first panel of witnesses to testify. As you know, it is the policy of this committee that all witnesses be sworn before you testify. Would you please rise with me and raise your right hands?

[Witnesses sworn.]

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you. You can be seated.

To afford sufficient time for questions, if you would limit yourselves to 5 minutes on your opening statements, we will have a buzzer up here. It will be green; it will turn yellow. That will give you a minute to sum up, and then when it is red, if you would try to end at that point. We have read the total statements which will be included in the record. So we can then go right to questions.

We will begin with Mr. Cooper, followed by Mr. Oliver, followed by Mr. Drabkin, followed by Dr. Kelman, by Mr. Mutek, and Mr. Wagner. Please proceed, Mr. Cooper, and thank you for being with us.

STATEMENTS OF DAVID E. COOPER, DIRECTOR, ACQUISITION AND SOURCING MANAGEMENT, GENERAL ACCOUNTING OFFICE; DAVID R. OLIVER, JR., PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE, ACQUISITION, TECHNOLOGY AND LOGISTICS; DAVID A. DRABKIN, DEPUTY ASSOCIATE ADMINISTRATOR, OFFICE OF ACQUISITION POLICY, OFFICE OF GOVERNMENT-WIDE POLICY, GENERAL SERVICES ADMINISTRATION; STEVEN KELMAN, ALBERT J. WEATHERHEAD III AND RICHARD W. WEATHERHEAD PROFESSOR OF PUBLIC MANAGEMENT, JOHN F. KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY; MICHAEL W. MUTEK, SENIOR VICE PRESIDENT, GENERAL COUNSEL, AND SECRETARY, RAYTHEON TECHNICAL SERVICES CO., REPRESENTING THE PROFESSIONAL SERVICES COUNCIL; AND MARK WAGNER, DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS, JOHNSON CONTROLS, REPRESENTING THE CONTRACT SERVICES ASSOCIATION

Mr. COOPER. Mr. Chairman and members of the subcommittee, thank you for inviting me to be here today. I look forward to sharing with the subcommittee the work that we've done on service contracting. Let me say from the outset that we're more than pleased to work with this subcommittee to provide you the information and reports that are needed to have proper and effective oversight of Federal procurement issues.

Clearly, contracting for services is an issue of growing importance and an area in need of management attention. Last year Federal agencies spent more than $87 billion to acquire services. Service acquisitions now account for 43 percent of all Federal contract spending. This is a significant increase from just a few years ago, and the amount is likely to grow in the future. The growth in service purchases has been driven largely in two areas: information technology services and professional, administrative, and management support services.

Along with the growth in service contracting, we've also witnessed significant changes in the way Federal agencies buy. Today there is a growing trend toward agencies purchasing services by using contracts awarded and managed by other agencies. For example, the General Services Administration, through its Federal Supply Schedule, offers a wide range of services, everything from engineering to laboratory testing and analysis to clerical and professional support services. Last year agencies used the Federal supply program to buy $7 billion of these services.

Acquisition reform legislation in the 1990's also authorized the use of new contract vehicles, such as multiple award task and delivery order contracts and government-wide agency contracts [GWACs]. These new contracts provide agencies with a great deal of flexibility and allow government contracting personnel to procure services for their customers quicker than was previously possible.

However, these new contracting vehicles and the rapid growth in service acquisitions have posed a challenge for the Federal acquisition work force. Our work, and that of other audit organizations, shows that service acquisitions are not always being run efficiently. In particular, agencies are sometimes not clearly defining their requirements, fully considering alternative solutions, performing sufficient and effective price evaluations, and adequately overseeing contractors' performance. Put simply, the poor management of service contracts undermines the government's ability to obtain good value for the money spent and puts taxpayer dollars at risk.

Compounding these problems are the agencies' past inattention to strategic human capital management. We are concerned that Federal agencies' human capital problems are eroding the ability of many agencies—and threaten the ability of others—to perform their missions economically, efficiently, and effectively. Following a decade of downsizing and curtailed investments in human capital, Federal agencies currently face skills, knowledge, and experience imbalances that, without corrective action, could worsen, given the number of Federal workers that are eligible to retire by 2005.

It is becoming increasingly evident that agencies are at risk of not having enough of the right people with the right skills to manage service procurements. Consequently, a key question facing government agencies is whether they have today, or will have tomorrow, the ability to acquire and manage the increasingly sophisticated services the government needs.

Congress and the administration are taking steps to address some of these contract management and human capital challenges. For example, in April of last year, the Procurement Executives Council established a goal that 50 percent of service contracts will be performance-based by the year 2005. The goal of increasing the use of performance-based contracts was affirmed by the Office of Management and Budget earlier this year. And only this month, we saw the Federal Acquisition Regulation revised to establish a preference for using such contracts.

We support the use of performance-based contracting. If properly implemented, performance-based contracting should result in reduced prices and improved performance. However, it should be recognized that moving to these types of contracts will not be easy. The success of using performance-based contracts will depend on the extent to which agencies provide the necessary training, guidance, and tools to their work forces, and establish metrics to monitor the results of the use of these contracts.

With regard to human capital management, it is clear that both OPM and OMB will play substantial roles. OPM has begun stressing the importance of planning for strategic human capital needs and are focusing more attention in this area. They have also assisted agencies by developing tools to help work force planning. For

example, it has developed a model and has launched a Web site to facilitate information sharing among the Federal agencies.

OMB has played a more limited role. However, OMB's role in setting government-wide management priorities and defining resource allocations will be critical to inducing agencies to integrate strategic human capital planning into their business processes. Toward that end, OMB's current guidance to agencies on preparing their strategic and annual performance plans states that the plans should set goals in such areas as recruitment, retention, and training.

Also, earlier this month, OMB instructed agencies to submit a work force analysis by June 29 of this year. The analysis is to include summary information on the demographics of the agencies' work force; projected attrition and retirements; an evaluation of work force skills; recruitment, training, and retention strategies being implemented, and barriers to maintaining a high-quality and diverse work force. The information developed from this initiative should prove useful in identifying human capital areas needing greater attention.

In summary, the increasing significance of contracting for services has prompted—and rightfully so—a renewed emphasis by Congress and Federal agencies to resolve longstanding problems with service contracts. To do so, the government must face the twin challenges of improving its acquisition of services while simultaneously addressing human capital issues. One cannot be done without the other. Expanding the use of performance-based contracting approaches and emphasizing strategic human capital planning are welcomed and positive steps, but sustained leadership and commitment will be required to ensure that these efforts mitigate the risks the government currently faces when contracting for services.

That concludes my statement.

[The prepared statement of Mr. Cooper follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Technology and Procurement Policy, Committee on Government Reform, House of Representatives

For Release on Delivery
10:00 a.m., EDT, Tuesday,
May 22, 2001

CONTRACT MANAGEMENT

Trends and Challenges in Acquiring Services

Statement of David E. Cooper, Director, Acquisition and Sourcing Management

GAO-01-753T

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to participate in the Subcommittee's hearing on the challenges confronting the government's acquisition of services. Federal agencies spend billions of tax dollars each year to buy services ranging from clerical support and consulting services, to information technology services such as network support, to the management and operation of government facilities, such as national laboratories. The amount being spent on services is growing substantially. Last year alone, the federal government acquired more than $87 billion in services—a 24-percent increase in real terms from fiscal year 1990.

Our work continues to show that some service procurements are not being done efficiently, putting taxpayer dollars at risk. In particular, agencies are not clearly defining their requirements, fully considering alternative solutions, performing vigorous price analyses, and adequately overseeing contractor performance. Further, it is becoming increasingly evident that agencies are at risk of not having enough of the right people with the right skills to manage service procurements. Consequently, a key question we face in the government is whether we have today, or will have tomorrow, the ability to acquire and manage the procurement of increasingly sophisticated services the government needs.

My statement today will

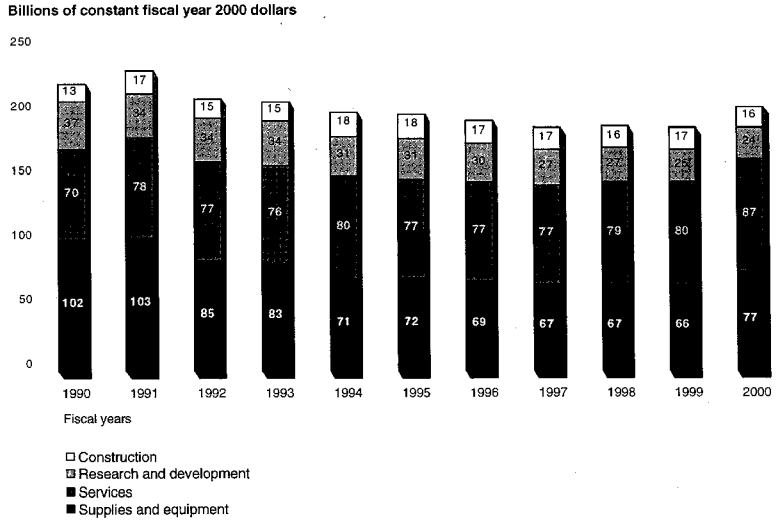
- describe service contracting trends and the changing acquisition environment,
- discuss the challenges confronting the government in acquiring services, and
- highlight some efforts underway to address these challenges.

Trends in Service Contracting and the Changing Acquisition Environment

Federal contracting began declining in the late 1980s as the Cold War drew to a close and defense spending decreased. This decline in federal contracting continued for most of the 1990s, reaching a low of about $187 billion[1] in fiscal year 1999. Spending subsequently increased to about $204 billion in fiscal year 2000. As figure 1 shows, between fiscal year 1990 and fiscal year 2000, purchases of supplies and equipment fell by about $25 billion, while purchases of services increased by $17 billion, or about 24 percent. Consequently, purchases for services now account for about 43 percent of federal contracting expenses—the largest single spending category.

[1] All dollars figures used in this section have been converted to constant fiscal year 2000 dollars. Additionally, the figures exclude actions under $25,000 and those made by government purchase cards.

Figure 1: Changes in Federal Contract Spending, Fiscal Year 1990 to Fiscal Year 2000



Source: GAO analysis of data extracted from the Federal Procurement Data System for actions exceeding $25,000.

The growth in services has largely been driven by the government's increased purchases of two types of services:

- information technology services, which increased from $3.7 billion in fiscal year 1990 to about $13.4 billion in fiscal year 2000; and
- professional, administrative, and management support services, which rose from $12.3 billion in fiscal year 1990 to $21.1 billion in fiscal year 2000.

The increase in the use of service contracts coincided with a 21-percent decrease in the federal workforce,[2] which fell from about 2.25 million employees as of September 1990 to 1.78 million employees as of September 2000.

As federal spending and employment patterns were changing, changes were also occurring in the way that federal agencies buy services. Specifically, there has been a trend toward agencies purchasing professional services using contracts awarded and managed by other agencies. For example, in 1996, the General Services Administration (GSA) began offering information technology services under its Federal Supply Schedule program,[3] and it now offers services ranging from professional engineering to laboratory testing and analysis to temporary clerical and professional support services. The use of the schedule program to acquire services has increased significantly over the past several years.

Other governmentwide contracts have also come into use in recent years. The Federal Acquisition Streamlining Act of 1994 authorized federal agencies to enter into multiple award, task- and delivery-order contracts for goods and services. These contracts provide agencies with a great deal of flexibility in buying goods or services while minimizing the burden on government contracting personnel to negotiate and administer contracts. The Clinger-Cohen Act of 1996 authorized the use of multiagency contracts and what have become known as governmentwide agency contracts to facilitate purchases of information technology-related products and services such as network maintenance and technical support, systems engineering, and integration services.

[2] Reflects the total civilian employment for executive branch agencies, excluding the U.S. Postal Service and the Postal Rate Commission.

[3] Under the schedule program, GSA negotiates contracts with vendors for a wide variety of mostly commercial-type products and services, and permits other agencies to place orders under these contracts directly with the vendors. Traditionally, the program had generally been used for common goods, such as office supplies and furniture. According to GSA, it takes 268 days to award a contract using traditional methods, but it takes only 15 days, on average, to award an order under the schedule program.

Challenges Faced by the Government In Acquiring Services

While we have seen the environment change considerably, what we have not seen is a significant improvement in federal agencies' management of service contracts. Put simply, the poor management of service contracts undermines the government's ability to obtain good value for the money spent. This contributed to our decision to designate contract management a high-risk area for the Departments of Defense and Energy, the two largest purchasers within the federal government. Improving contract management is also among the management challenges faced by other agencies. Compounding these problems are the agencies' past inattention to strategic human capital management. As you may know, in January 2001, we designated strategic human capital management a governmentwide high-risk area.

Our work, as well as work by other oversight agencies, continues to identify examples of long-standing problems in service contracting, including poor planning, inadequately defined requirements, insufficient price evaluation, and lax oversight of contractor performance. For example,

- We found that the Department of Defense's (DOD) broadly defined work descriptions for information technology services orders placed against several governmentwide contracts prevented establishing firm prices for the work.[4] Work descriptions defined services broadly because the orders covered several years of effort, and officials were uncertain what support they would need in future years. The 22 orders we reviewed—with a total value of $553 million—typically provided for reimbursing the contractors' costs, leaving the government bearing most of the risk of cost growth. Further, although competition helps agencies ensure they obtain the best value under contracts, a majority of these orders were awarded without competing proposals having been received.
- The DOD Inspector General found problems with each of the more than 100 contract actions—with a total value of $6.7 billion—for professional, administrative, and management support services it reviewed.[5] For example, contracting officials typically did not use experience from prior acquisitions of the same services to help define requirements more clearly. In one case, officials continued to award cost reimbursement contracts—

[4] *Contract Management: Few Competing Proposals for Large DOD Information Technology Orders* (GAO/NSIAD-00-56, Mar. 20, 2000).

[5] *Contracts for Professional, Administrative, and Management Support Services* (Office of the Inspector General, Department of Defense, Mar. 10, 2000).

and accepted the risk of cost overruns—despite 39 years of experience purchasing the same services from the same contractor. Further, officials typically did not prepare well-supported independent cost estimates to help them assess whether the costs contractors proposed were reasonable. Finally, the Inspector General found that oversight of contractor performance was inadequate in a majority of cases, and in some cases DOD officials could not show that they had actually reviewed the contractors' work.

- We found that DOD personnel sought competing quotes from multiple contractors on only a handful of orders for information technology services placed against GSA's federal supply schedule contracts.[6] On 17 orders—valued at $60.5 million—contracting officers generally compared the labor rates offered by their preferred contractor with labor rates of various other contractors' supply schedule contracts instead of seeking competing quotes. This limited analysis did not provide a meaningful basis for assessing whether a contractor would provide high-quality, cost-effective services because it did not evaluate the proposed number of labor hours and mix of labor skill categories. Therefore, contracting officers' ability to ensure that DOD got the best services at the best prices was significantly undermined.
- The Inspector General at the Department of Transportation found that on an $875-million contract for technical support services, the Federal Aviation Administration did not develop reliable cost estimates or use these estimates to assess whether costs the contractor proposed were reasonable.[7] Further, the agency generally did not gather data to evaluate the quality of contractor performance nor ensure that contractor personnel had the education and experience required for the jobs they were being paid to perform.
- The Inspector General at the Department of Energy reported on a $218-million contract for security services at its Oak Ridge operations.[8] This contract was intended to consolidate security services under a single contractor and to reduce costs by reducing staffing and eliminating duplicative management structures. Oak Ridge officials, however, did not

[6] *Contract Management: Not Following Procedures Undermines Best Pricing Under GSA's Schedule* (GAO-01-125, Nov. 28, 2000).

[7] *Technical Support Services Contract: Better Management Oversight and Sound Business Practices Are Needed* (Office of the Inspector General, Department of Transportation, Sept. 28, 2000).

[8] *The Restructure of Security Services by the Oak Ridge Operations Office* (Office of the Inspector General, Department of Energy, Oct. 31, 2000).

define what security-related work the new contractor would perform and did not analyze staffing levels or propose cost reduction measures to promote efficient contractor performance. Consequently, the number of security personnel actually increased from 640 prior to the consolidation to 744 afterwards, while Oak Ridge incurred an estimated $7.5 million in avoidable costs instead of achieving an anticipated $5 million in savings.

While these examples highlight the need for federal agencies to improve their management of service contracts, their capacity to do so is at risk because of past inattention to strategic human capital management. We are concerned that federal agencies' human capital problems are eroding the ability of many agencies—and threaten the ability of others—to perform their missions economically, efficiently, and effectively. For example, we found that the initial rounds of downsizing were set in motion without considering the longer term effects on agencies' performance capacity. Additionally, a number of individual agencies drastically reduced or froze their hiring efforts for extended periods. Consequently, following a decade of downsizing and curtailed investments in human capital, federal agencies currently face skills, knowledge, and experience imbalances that, without corrective action, could worsen given the number of current federal civilian workers that are eligible to retire through 2005.

I would like to use DOD's experience to illustrate this problem. As we recently testified,[9] DOD's approach to civilian workforce reduction was not oriented toward shaping the makeup of the force. Rather, DOD relied primarily on voluntary turnover and retirements, freezes on hiring authority, and its authority to offer early retirements and "buy-outs" to achieve reductions. As a result, DOD's current workforce is not balanced and therefore risks the orderly transfer of institutional knowledge. According to DOD's Acquisition 2005 Task Force,[10] 11 consecutive years of downsizing produced serious imbalances in the skills and experience of the highly talented and specialized civilian acquisition workforce, putting DOD on the verge of a retirement-driven talent drain.

[9] *Human Capital: Major Human Capital Challenges at the Departments of Defense and State* (GAO-01-565T, Mar. 29, 2001).

[10] *Shaping the Civilian Acquisition Workforce of the Future* (Final Report of the Acquisition 2005 Task Force to the Under Secretary of Defense, Acquisition, Technology, and Logistics and the Under Secretary of Defense, Personnel and Readiness, Oct. 2000).

DOD's leadership had anticipated that using streamlined acquisition procedures would improve the efficiency of contracting operations and help offset the effects of workforce downsizing. However, the DOD Inspector General reported that the efficiency gains from using streamlined procedures had not kept pace with acquisition workforce reductions. The Inspector General reported that while the workforce had been reduced by half, DOD's contracting workload had increased by about 12 percent[11] and that senior personnel at 14 acquisition organizations believed that workforce reductions led to problems such as less contractor oversight.

While I have discussed DOD's problems at length, we believe our concerns are equally valid regarding the broader civilian agency contracting community. For example, our analysis of personnel data maintained by the Office of Personnel Management (OPM) shows that while DOD downsized its workforce to a greater extent than the civilian agencies during the 1990s, both DOD and the civilian agencies will have about 27 percent of their current contracting officers eligible to retire through the end of fiscal year 2005. Consequently, without appropriate workforce planning, federal agencies could lose a significant portion of their contracting knowledge base.

Some Efforts are Underway to Address Service Contracting Challenges

Congress and the administration are taking steps to address some of these contract management and human capital challenges, in particular by emphasizing the increased use of performance-based service contracts and by stressing the importance of integrating strategic human capital management into agency planning.

Performance-based contracts describe desired outcomes rather than direct work processes.[12] According to the Office of Federal Procurement Policy, the use of performance-based contracts should result in lower prices and improved performance, among other benefits. To encourage their use, in April 2000, the Procurement Executives Council—a senior level coordinating body comprised of officials from more than 20 federal

[11] *DOD Acquisition Workforce Reduction Trends and Impacts* (Office of the Inspector General, Department of Defense, Feb. 29, 2000).

[12] A performance-based contract describes the government's requirements in terms of desired results and measurable outcomes, establishes procedures to manage performance that does not meet standards, and includes performance incentives where appropriate.

departments and agencies—established a goal that 50 percent of service contracts will be performance-based by fiscal year 2005. The goal of increasing the use of performance-based contracts was reaffirmed in a March 9, 2001, memorandum issued by the Office of Management and Budget (OMB). Further, as required by last year's defense authorization act,[13] the Federal Acquisition Regulation was revised on May 2, 2001, to establish a preference for using performance-based contracting when acquiring services.

While we support the use of performance-based approaches, it should be recognized that performance-based contracting is not a new concept. The Office of Federal Procurement Policy issued a policy letter in April 1991 that directed using performance-based contracting to the maximum extent practicable. However, this approach was not widely adopted by federal agencies, and the Procurement Executives Council's interim goal of having 10 percent of service contracts awarded in fiscal year 2001 be performance-based is indicative of the current level of performance-based contracting in the government. Consequently, the extent to which agencies provide the necessary training, guidance, and tools to its workforce, and establish metrics to monitor the results of the contracts awarded using performance-based approaches, will affect whether this effort achieves its intended results.

With regard to human capital management, it is clear that both OPM and OMB have substantial roles to play. OPM has begun stressing to agencies the importance of integrating strategic human capital management into agency planning and has focused more attention on developing tools to help agencies. For example, it has developed a workforce planning model and has launched a website to facilitate information sharing about workforce planning issues. OMB has played a more limited role; however, OMB's role in setting governmentwide management priorities and defining resource allocations will be critical to inducing agencies to integrate strategic human capital into their core business processes. Toward that end, OMB's current guidance to agencies on preparing their strategic and annual performance plans states that the plans should set goals in such areas as recruitment, retention, and training, among others. Earlier this month, OMB instructed agencies to submit a workforce analysis to it by June 29, 2001. The analysis is to include summary information on the

[13] *The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001*, P. L. 106-398, Oct. 30, 2000.

demographics of the agencies' permanent, seasonal, and temporary workforce; projected attrition and retirements; an evaluation of workforce skills; expected changes in the agency's work; recruitment, training, and retention strategies being implemented; and barriers to maintaining a high-quality and diverse workforce. The information developed may prove useful in identifying human capital areas needing greater attention.

Conclusion

Over the past decade, federal spending patterns changed, the federal workforce declined, and new contracting vehicles and techniques were introduced. Consequently, the current environment in which the government acquires services is significantly different than the one it operated under in 1990. However, the government's long-standing difficulties with managing service contracts have not changed, and it is clear that agencies are not doing all they can to ensure that they are acquiring services that meet their needs in a cost-effective manner.

The increasing significance of contracting for services has prompted—and rightfully so—a renewed emphasis by Congress and the executive agencies to resolve long-standing problems with service contracts. To do so, the government must face the twin challenges of improving its acquisition of services while simultaneously addressing human capital issues. One cannot be done without the other. Expanding the use of performance-based contracting approaches and emphasizing strategic human capital planning are welcomed and positive steps, but sustained leadership and commitment will be required to ensure that these efforts mitigate the risks the government currently faces when contracting for services.

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 information, please contact David E. Cooper at (202) 512-4841. Individuals making key contributions to this testimony included Don Bumgardner, Ralph Dawn, Tim DiNapoli, Julia Kennon, Gordon Lusby, Monty Peters, Ron Schwenn, and John Van Schaik.

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Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much.

Mr. Oliver.

Mr. OLIVER. Mr. Chairman and Congressmen, I'd like at the beginning to demonstrate a rare executive/legislative branch cooperation because I've made a graph that actually makes your point very well, I think, over there. What you're seeing is the problem that you, Mr. Chairman, are really talking about, which is that over the last 20 years the red line shows the acquisition dollars that are going to nonservice contracts, and the blue line shows what's going to service contracts. What it says is what your focus is, where the money is, and the money is coming there, and so therefore, it needs a significant amount of attention. That's in the Department of Defense.

So the question is, what are we doing? What I would like to do is tell you about four things, one of which has to do with the people. It is important that we figure out how many people we need and how they're supposed to be trained. We have had a year study. We put a special task force together. They have been working on this for a year, and they report in to me this summer, and I'll have that analyzed before the end of the summer. In addition, that's going to tell us, talk to us about how the people should be shaped.

Second is how you educate them. Four years ago, nearly 5 years ago, we put out a policy that said, in accordance with industry standards, that we would train people for 40 hours a year; we would provide them training. So that goal was laid out.

But the second part of that is how good that training is. I think that is getting better and we're going to see results. We have gotten a new president in Defense Acquisition University, and what we have done is gone to the business schools and said, "Give us your courses or you make up the courses to teach our people how to do better business." And so we're going away from the homegrown courses to the business schools and having them do that.

I looked at the first five case studies about 2 months ago. That progress is moving out. The intention is, and a great deal of the training that exists now is Web-based, but the intention is to have first-class business school quality training on the Web.

The second part is performance-based contracting. We have put out a goal to have 50 percent of the contracts, both by size, dollar value, and number of contracts, to be performance-based by year 2005. We have a manual, a guide, about how to do that, which was published in December. The problem is, as you would say, where are the examples on the Web for people to use, and I don't have examples and templates and I will have within 3 months on the Web, so that everybody can access it. So they cannot only use this guide about how to write the contracts, they can use the templates. So I've got a goal and I have the methods to achieve the goal, and then the question is about management and oversight.

With the recognition as to where the money is, I briefed Under Secretary Aldridge yesterday, and he is speaking to the Secretaries this week. I expect us to start the same sort of review process that we do for capital investment programs such as airplanes and ships, to do this same thing with service contracts. In other words, we're going to start a review process so a contract at any level has to be reviewed at that level. There's a level of them that get reviewed by

Pete Aldridge. There's a level that get reviewed by the Secretaries of the Services. There's a level that get reviews by the generals and admirals, and that process is set up.

The final thing is incentive acquisition. All of this works with the fact that people have to bring in new ideas. The best one I've seen is the logistics modernization that the Army did, which is essentially a share-in-savings. It was done last year. You know, Mr. Chairman, how difficult that was to pull off, and we both were involved in making that happen. The interesting problem is there are still barriers to doing share-in-savings because of the length of contracts problem and with respect to the initial investment the companies have to put out.

But the Department of Defense recognizes the problem that you are addressing. It's the problem that's on that viewgraph or that slide I brought to the left. I think it's a very dramatic problem, and we are focused on it. I would like to provide you an update in about 6 months as to how we're doing because that's when we're going to see whether or not these programs are coming together. Thank you, sir.

[The prepared statement of Mr. Oliver follows:]

TESTIMONY OF

DAVID R. OLIVER, JR.
PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
(ACQUISITION, TECHNOLOGY & LOGISTICS)

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON
TECHNOLOGY AND PROCUREMENT POLICY

MAY 22, 2001

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 the Department's acquisition of services.

Today, the Department of Defense spends approximately an equal amount of money for the acquisition of services as it does for equipment. As a result of that change, we are increasing our emphasis on our acquisitions for services. As with any large organization, we are always working on lots of endeavors however we are focused on:

- **Performance based service acquisition,**
- **Better training the acquisition workforce, and**
- **More inventive acquisitions.**

There are numerous challenges we face in achieving excellence in the acquisition of services. Our business environment, within the Department of Defense, has become very complex. We are trying to integrate commercial practices, identify core competencies, and comply with congressionally mandated requirements all within a dramatically reduced budget environment. While we have made progress, which I will address later in my statement, we face a constant challenge in addressing cultural issues "the old way" and institutionalizing business process improvements. To address these challenges, the acquisition of services cross-functional team is working on integrating policy for performance-based requirements, oversight and review, small business, technology issues and outsourcing as well as training and education initiatives.

My following remarks will address your specific questions:

Each of the services and the defense agencies are preparing detailed human resource strategic planning for the civilian portion of the Acquisition, Technology and Logistics work force. These plans, due at the end of July, are a long-term effort

to improve civilian workforce career management. Highlights of this major effort are:

- **Field a Management Information System to be able to critically examine the current workforce.**
- **Develop a process and template to capture the needed future workforce characteristics**
- **Institutionalize the Human Resource planning process, with a DoD Comptroller developed budget display, that will forecast the size of the acquisition, technology and logistics workforce through the end of the Future Year Defense Plan.**

The Department has been improving its training processes for the last decade with the Defense Acquisition Workforce Improvement Act of 1990 that established a professional development framework and imposed certification requirements on the acquisition workforce. DoD needs to effectively train more than 135,000 members of the acquisition workforce including contract specialists, program managers, engineers, logisticians and other career fields.

The Department of Defense spends approximately $100 million annually on acquisition certification training. While about two-thirds of the dollars are currently spent on formal classroom training courses, we are rapidly moving to a distance learning environment with about a third of our courses online. In order to ensure our workforce stays current and has the skills in our new environment, we have embarked on a series of major initiatives:

- **Requiring that each member of the acquisition workforce must receive a minimum of 80 hours of continuous learning every two years.**
- **Providing a web-based directory of continuous learning opportunities of all kinds.**

- **Re-engineering the formal training offered through the Defense Acquisition University to emphasize business and commercial practice training as well as acquiring training through commercial sources.**

The importance of the Department's Performance-based Service Acquisition strategy was re-emphasized last year in April 2000 when the Under Secretary of Defense Acquisition, Technology and Logistics directed that 50 percent of contracts for services (measured in both dollars and actions) be performance-based by the year 2005. The Services and Agencies are implementing this guidance and have submitted their plans to accomplish this requirement. A good example is the Naval Sea Systems Command awarded 21 Indefinite-Delivery, Indefinite-Quantity, contracts for Professional Support Services for a five year base period, with two five year option periods. Task orders will be competed under these contracts, and issued as or converted to performance-based statements of work within the next year. There is a requirement for 35% of the subcontracted effort to be awarded to small businesses and seven of the 21 prime contractors are small or small disadvantaged businesses. So we believe we are ahead of the new Office of Management and Budget performance goals to have twenty percent of service contracts as performance-based by 2002.

The DoD Form 350, Individual Contract Action Report, has been modified to identify whether the action was performance-based. The data indicates that 21% of DoD's contracts for services awarded from October 2000 through March 2001 were performance based ($6.1 billion of $28.9 billion).

For the last two years, DoD has also initiated an aggressive outreach strategy that involves jump-starting education and training at the 19 acquisition commands with responsibility for over 50 percent of DoD's contracts for services. To date, we are expediting conversion of numerous major service acquisitions to performance based requirements.

In addition to training, we have worked to develop many tools available to the workforce to help our acquisition community work more efficiently and effectively. The following are examples of information technology systems employed throughout the Department to streamline the procurement process:

- **Central Contractor Registration (CCR) – is a web-based central listing of prospective vendors that facilitates market research by providing a single listing of contractors and their areas of expertise. CCR expedites contract award and payment.**
- **Electronic Document Access (EDA) - is another web-based capability that provides a pdf version of contracts and modifications thereby facilitating the payment process.**
- **Federal Business Opportunities "Fed Biz Ops" – by October 2001, DoD will provide electronic access to our synopses and solicitations online, eliminate the labor required to address, package and mail solicitations, and provide industry and vendors with easy access to our business opportunities.**
- **EMALL – is another web-based shopping capability that allows orders to be placed by the user, thus reducing workload.**
- **Past Performance Automation Information System (PPAIS), Contractor Performance Assessment Reporting (CPARS), Past Performance Information Management System (PPIMS), Past Performance Tool (PPT) – provides a paperless capability for collection and retrieval of contractor past performance data.**
- **Wide Area Workflow – Receipts/Acceptance is a web-enabled tool that facilitates submitting vendor invoices and receipt/acceptance DD250s on the Internet.**
- **Change Management Center – provides training and assistance to develop performance-based requests for proposal.**

DoD has recently joined an Interagency team led by the Department of Commerce to brainstorm government-wide solutions for performance-based acquisitions. We would be willing to provide more information on the progress of this group at a later date.

In addition to training, DoD has other non-traditional methods of outreach to provide support to the workforce. Since June 1997, the Defense Under Secretary of Defense (Acquisition Reform) has produced 22 satellite broadcasts on topics ranging from: multiple award and delivery order contracts; earned value management; past performance; contract pricing; and, competitive sourcing. The tapes of these broadcasts are distributed widely for use in local training and to support the annual Acquisition and Logistics Reform Week training. The Department has also developed a guidebook for Performance-Based Services Acquisition for use by the entire acquisition workforce. In addition, the National Association for Purchasing Management and the National Contract Management Association, with the DoD, developed an on-line Performance-Based Services Acquisition tutorial.

The Department recently issued policies to clarify techniques for service contracting. The first area of policy clarification is designed to ensure the Department takes full advantage of the potential for competition inherent in multiple award task order contracting. DoD has emphasized the importance of competition when using this type of vehicle, and of having contracting personnel adequately document instances in which competition is not used. The Department has taken several steps including collecting information on the extent to which task orders are in fact being competed.

A second area of focus is to ensure proper tracking of DoD funds spent by others. DoD is leading the effort to require all agencies to report in the Federal Procurement Data System any purchases made for another agency. This will provide DoD detailed information on money spent for services and supplies by other

agencies to satisfy DoD requirements. We are also adding collection requirements for information technology purchases by others for DoD, in accordance with Section 812 of the FY 2001 DoD Authorization Act. Those requirements, including whether buys made for DoD by civilian agencies comply with Clinger-Cohen Act planning requirements, go into effect on October 1, 2001.

A third area of policy clarification is to develop, within DoD and as part of interagency teams with civilian agencies, better management procedures for Government-Wide Acquisition Contracts and Multi-Agency Contracts. This will include a government-wide data base listing all Government-Wide Acquisition Contracts and Multi-Agency Contracts, accessible to government Contracting Officers via the internet. The data base web site will provide all pertinent information about each Government-Wide Acquisition Contract and Multi-Agency Contract, including an ability to view the contracts themselves so contracting officers can assess the suitability of terms and conditions. The web site will include a link to Federal Supply Schedule contract information. Testing is expected to begin in Fall 2001.

Finally, the share-in-savings authority, as defined by the Clinger-Cohen Act, has not been fully implemented for a number of reasons. A primary concern within DoD is funding authority, both to provide termination liability protection for the contractor investment, as well as to ensure that funds spent for payment of savings are the right type of funds. Additionally, there may be some contractor reluctance to providing all of the non-recurring funds for the investment even with the long-term payback.

In summary, I want to emphasize that achieving excellence in the acquisition of services is a top priority of the Department. We fully appreciate that we have challenges but have actions and initiatives underway that will achieve these objectives. As with any large organization, we are always working on lots of endeavors however we are focused on:

- **Performance based service acquisition,**
- **Better training the acquisition workforce, and**
- **More inventive acquisitions.**

We would welcome the opportunity to come back and discuss our progress in six months and work with you to improve our acquisition of services.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much.

Mr. Drabkin, thanks for being with us.

Mr. DRABKIN. Chairman Davis and members of the committee, thank you for the opportunity to appear this morning and address a number of key issues concerning acquisition within the U.S. General Services Administration. As you are aware, GSA's Administrator has not been confirmed yet. We're hoping that happens next week. Therefore, it would be inappropriate for me to address during the course of my testimony, either oral or in writing, any specific proposals for the future.

Preliminarily, let me comment that many of us in the room today played an important role in reforming the government's acquisition system. Beginning with the section 800 panel in the early 1990's, we saw a major effort to study our acquisition system and make changes that streamline the system, resulting in lower overall costs to the government; improved quality of the goods, services, and construction we acquire, and increased reliance on the private sector to provide solutions to the government's requirements. These changes have been dramatic.

Just 6 years ago, if an employee required a tape recorder to perform her work, she would have likely had to prepare a requisition form in paper on a typewriter kept just for the purposes of completing those forms. The requisition was routed through the office mail process to a number of different offices for various approvals and eventually found its way to the Procurement Office, which would then generate more paper, mail it or fax it to a supplier, who would, instead of returning a product, return a promise to deliver a product and then some time later deliver a product to a warehouse, which doesn't exist anymore, where it would be accounted for, logged in, and then shipped through channels to the person that ultimately needed a taperecorder.

How long did that process take? It used to take between 4 to 6 months. And what did that process cost the government? Well, some experts have estimated that it cost the government in the hundreds of dollars per transaction. What has acquisition reform done to change that scenario? Today the government employee can log on the Internet from their desk, purchase the tape recorder using their government purchase card, and arrange for delivery as soon as the next day or whenever the time constraints make it necessary. The estimated cost to the government is less than $50 per transaction. At a minimum, whether you agree whether it costs $100 or $50 today, everybody we've talked to agrees that it at least avoids a cost of $20 per transaction, and last year alone in the Federal Government we did 24 million transactions. Multiply that times $20 and that's money.

While acquisition reform has made our processes simpler and faster in terms of responding to internal government customers for low-dollar-value items, it has made the processes more difficult for members of the acquisition work force. In the beginning of the 1990's, the majority of GSA's contracting specialists had relatively well-defined processes to follow which did not require a great deal of specialized education and training. Generally, they received a purchase request. They made sure all the i's were dotted and the

t's were crossed, attached the correct contract clauses, sent out an IFB under FAR Part 14 if the contract exceeded $25,000.

On bid opening day, they opened all the bids received, prepared an extract of the bids that were received. They checked to see if the lowest price offeror was responsive to the requirement, and if the offeror was responsible, the contracting officer then awarded the contract to the lowest responsive responsible bidder. It was fair to observe that our contracting folks were in those days shoppers. Not so in today's environment.

Today our acquisition work force faces a variety of challenges in acquiring the goods, services, construction, and real estate that their government customers need to perform their missions. The expectations and demands of our work force are greater than ever before. In addition to managing the procurement processes from cradle to grave, contracting specialists are now expected to have much greater knowledge of market conditions, industry trends, and the technical details of the commodities and services they procure. This is a much broader span of responsibility than they've ever had before.

Turning to performance-based contracting, this is a completely different approach than the government used to have to doing business. In the past we told people how to make things, not what we wanted in terms of a solution. We spent pages—I mean Vice President Gore gave an award for the reduction of the cookie specification; T-shirts had multiple pages of specifications—instead of telling people what we needed were chocolate chip cookies or T-shirts. In today's environment our people under performance-based contracting—and it shouldn't be limited just to services—are required to define outcomes in terms that they can measure and then acquire those outcomes from industry.

Also, there's been a significant change in terms of pricing. In the past we did pricing based upon the lowest responsible responsive bidder or we did it based upon adding costs and putting profit on. Today we don't do that. We expect our people to understand how the marketplace develops prices and then compete in that same marketplace.

And finally, I would observe the next major change that we should be aware of is what has happened in the area of best value. In the past we only focused on getting lowest price. In fact, Senator Glenn was quoted—and I don't remember it exactly—about sitting on top of this rocket with all those explosives that went to the lowest bidder. Today we look for the best value. We look for what's the long-term cost, the life-cycle cost, the maintenance impacts, and the disposal impacts of what we buy.

The rest of my comments are in my speech and then they're in the record. Thank you.

[The prepared statement of Mr. Drabkin follows:]

TESTIMONY OF

DAVID A. DRABKIN

DEPUTY ASSOCIATE ADMINISTRATOR

OFFICE OF ACQUISITION POLICY

OFFICE OF GOVERNMENTWIDE POLICY

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY AND PROCUREMENT POLICY

COMMITTEE ON GOVERNMENT REFORM

U.S. HOUSE OF REPRESENTATIVES

MAY 22, 2001

Chairman Davis and members of the committee, thank you for the opportunity to appear here this afternoon and address a number of key issues concerning acquisition within the United States General Services Administration (GSA). As you are aware, GSA's Administrator has not been confirmed; therefore it would be inappropriate of me to address any specific proposals for the future.

Preliminarily, many of us in this room today played an important role in reforming the government's acquisition system. Beginning with the Section 800 Panel in the early 90s, we saw a major effort to study our acquisition system and to make changes that streamlined the system, resulting in lower overall cost to the government, improved quality of the goods, services and construction we acquire and an increased reliance on the private sector to provide solutions to the government's requirements.

The changes have been dramatic. Just 6 years ago, if a GSA employee required a tape recorder to perform her work, she would have likely had to prepare a requisition form, in paper, on a typewriter kept just for that purpose in the office. The requisition was routed through the office mail process to a number of offices for various approvals and eventually found its way to the procurement office which would then generate more paper, mail it or fax it to the supplier, who would return the paper with a promise to deliver and then deliver the tape recorder to the warehouse where it would be accounted for and then routed through the appropriate office which had requisitioned the tape recorder in the first place. How long did this process take? It took anywhere from four to six months. What did this process cost? Some experts have estimated that it cost the government in the hundreds of dollars.

What has acquisition reform done to change this scenario? Today the government employee can log on the Internet and purchase the tape recorder using her government purchase card and arrange for delivery the next day or within whatever time constraints are necessary. The estimated cost to the government is less than $50.00 per transaction. At a minimum most agree that this new process avoids a cost of about $20.00 per transaction.

While acquisition reform has made our processes simpler and faster in terms of responding to our internal government customers for low dollar value items, it has made the processes more difficult for many members of our acquisition workforce. In the beginning of the 1990s, the majority of GSA's contracting specialists had a relatively well defined process to follow which did not require a great deal of specialized education and training. Generally, they received a purchase request, made sure all the I's were dotted and T's crossed, attached the correct contract clauses and then sent out an IFB, invitation for bids, under Federal Acquisition Regulation (FAR) Part 14, if the contract exceeded the small purchase threshold of $25,000. On bid opening day, they opened all of the bids received, prepared an extract of the bids based upon the offering price. They next checked to make sure that the lowest priced offer was responsive to the requirement and that the offeror was responsible. The contracting officer then awarded the

contract to the lowest, responsive, responsible bidder. It was fair to observe that our contracting folks were, for the most part, shoppers. Not so in today's environment.

Today our acquisition workforce faces a variety of challenges in acquiring the goods, services, construction, and real estate that their government customers need to perform their mission. The expectations and demands of our workforce are greater than ever before. In addition to managing the procurement process from cradle to grave, contracting specialists are now expected to have much greater knowledge of market conditions, industry trends and the technical details of the commodities and services they procure. This is a much broader span of responsibility than ever before.

With this information as a backdrop, allow me to briefly touch on just three key issues which specifically address some of the other challenges faced by the acquisition workforce: performance based service contracting, pricing and best value.

Performance based contracting requires a completely different approach to government acquisition. In the past when we bought something, even simple, common, things like cookies, or T-shirts, or plumbing services, we told the supplier how to perform. For cookies, we had multiple page specifications describing how the cookie was to be made. The same was true for T-shirts and for plumbing. We had multi-page specifications telling a plumber how to perform plumbing duties. Today things are very different. The requirement has to be described in terms of the outcome we want to acquire. Instead of telling industry how we want them to do something, we ask them to offer us a solution to our requirement and then we have to evaluate the solutions offered, understand what they have to offer and evaluate their comparative value technically. To do that our acquisition workforce members have to develop expertise they previously did not need. Essentially they must know as much about the marketplace as the private sector provider.

Next think about how we expect our acquisition workforce to price the items they acquire. In the past either the lowest price won or the companies submitted cost and pricing data, we evaluated their costs, added profit and that was the price we paid. Today except in very rare cases, we do not use cost and pricing data plugged into a formula with profit added on at the end to determine price. Today we are using commercial pricing techniques that require substantial knowledge of a particular market and the companies with which we want to do business.

Finally, there is our use of "best value." Prior to the mid 1990s we focused on getting the lowest price. Low price was the measure of our success, even if the item cost more to maintain, had a shorter useful life or increased the cost to dispose of the item. Today we seek the item, service, construction or real estate that provides us with the overall best value, which means we may agree to pay more in terms of contract price to reduce life cycle cost or improve quality and reliability. This requires new skills that the majority of our workforce did not have to have before. This brings me to answering the specific questions propounded by the Committee.

Q: What specific steps has GSA taken to identify acquisition workforce challenges and undertaken strategic human capital management planning for its workforce?

A: First, it is important to note that GSA considers its primary acquisition workforce as all individuals in the contract specialist 1102 career series and all individuals who have been issued a Contracting Officers Warrant. The GS 1102 series includes positions that manage, supervise, perform, or develop policies and procedures for work involving procurement of supplies, services, construction, or research and development using formal advertising or negotiation procedures; the evaluation of contract price proposals; and the administration or termination and close out of contracts. GSA also includes purchasing agents (series 1105) personnel and contracting officer representatives in its definition. GSA has established mandatory core training requirements for contract specialists, purchasing agents and contracting officer representatives, as well as all warranted contracting officers regardless of their professional series. GSA has quite a few contracting officers who are not in the 1102 career series. This was done to address operational requirements at the various worksites across the country where 1102 contracting officers were not available.

Many years ago GSA decided to decentralize responsibility for the acquisition workforce to its 3 services and 11 regions. The result is that we do not know today the state of the entire acquisition workforce within GSA. We have undertaken internal efforts recently to gather data about GSA's workforce and have preliminary data. A significant amount of data is incomplete because certain elements within GSA have not captured all data in their records. GSA will adopt the Acquisition Career Management Information System (ACMIS), a joint project between the Procurement Executives Council (PEC) and the Federal Acquisition Institute (FAI), that will give us insight into all acquisition professionals. ACMIS has had some developmental problems principally associated with new requirements, like security plans, not identified at the time the project began and we are working to bring ACMIS to fruition.

We also propose to establish a Human Capital Management Board comprised of agency senior executives and initiate succession planning to ensure the continued viability of GSA's acquisition workforce. Succession planning will include all aspects of the career of our workforce from recruitment through retirement. It will look at the skills needed to replace our current workforce, providing new and interesting challenges to our workforce as they enter the middle of their careers and how to retain our workforce at the twilight of their federal careers in order to mentor and share knowledge with the newer members of the workforce.

We are able to provide information on the individuals in the 1102 career series. GSA currently employs approximately 1,215 employees in the 1102 series. According to OPM as of September 1999, 42% currently have a 4-year college degree or higher. We do not know how many have satisfied the requirement for 24 hours of business education.

Q: What initiatives has GSA undertaken to train the acquisition workforce on the many changes in the procurement arena in the past ten years? What percentage of GSA's budget is spent on acquisition Workforce training? How often do acquisition workforce personnel undergo training initiatives?

What initiatives has GSA undertaken to train the acquisition workforce on the many changes in the procurement arena in the past ten years?

GSA has a multi-faceted training approach to acquisition issues. First, we team with FAI to share information through its On-Line University. Currently FAI offers the following non-mandatory courses:

Contracting Orientation
Market Research
Acquisition Planning
Simplified Acquisition
Contract Negotiation
Ethics
Javits-Wagner O'Day Seminar
Contracting Officer Technical Representative

In addition, using the Contracting Specialist Workbook, GSA has developed an integrated program involving classroom training and on-the-job-training to provide the acquisition workforce the skills it needs to accomplish the responsibilities of the acquisition function. The following mandatory core courses are available through Federal Supply Service (FSS) vendors under GSA contracts. Our contractors continuously update training materials based on curriculum changes made by FAI and the Defense Acquisition University.

Acquisition or Procurement Planning I (and II)
Simplified Acquisitions
Contract Formation I (and II)
Contracting by Sealed Bidding
Contract Administration I (and II)
Price Analysis
Cost Analysis
Negotiation Techniques
Contract Law
Intermediate Contract Pricing

Finally, we have just set up an office within the Office of Acquisition Policy to focus full-time on strategic/succession planning and education and training for GSA's acquisition workforce. Staffing the office is awaiting confirmation of our Administrator and the granting of an exception to the current hiring controls within GSA.

What percentage of GSA's budget is spent on acquisition Workforce training?

GSA did not begin tracking separately the amount of its budget spent on Acquisition Workforce training until this year. Tracking is a problem because: (1) we charge training to credit cards rather than through a obligating document (i.e., training form) and then we fail to recode the credit card charges to the proper budget activity, organization code and function code even though Agency procedures require that the recoding be accomplished; and (2) we fail to use the

proper function code when an obligating document is used or when the recoding referred to in (1) above takes place. The problem is lack of enforcement within GSA of its own procedures.

Total GSA training obligations for FY 2000 were $14,309,353. $1,477,588 was obligated for Acquisition Workforce Training which represented 10.3% of total training obligations. For FY 2001, $3,262,110 was set aside for Acquisition Workforce training. The Acquisition Workforce Training budget represents .02% of GSA's operating budget for FY 2001.

How often do acquisition workforce personnel undergo training initiatives?

Acquisition Workforce personnel, after completing all mandatory education and training are required to complete 40 hours of continuing education every two years. We try and provide a variety of opportunities for GSA's acquisition workforce including attendance at courses offered by colleges and universities, professional associations and training in related topics such as information technology and management. Most GSA acquisition workforce members attend at least 20 hours of training a year. In addition, the GSA acquisition workforce located in the metropolitan Washington, DC area is able to attend monthly lunchtime seminars hosted by FAI. These seminars address current, relevant acquisition topics that provide the workforce with continuous learning credits.

Q: Although the benefits of performance-based contracting are widely recognized, this type of contracting is still not sufficiently utilized. To what extent does GSA use performance-based contracting for services? In GSA's view, what government-wide mechanisms can be implemented to address these challenges?

To what extent does GSA use performance-based contracting for services?

Performance based service contracting has made its greatest impact within GSA's Public Buildings Service. Within PBS, the majority of service contracts, such as for janitorial or snow removal services have been converted to performance based.

FSS special ordering instructions encourage agencies to place performance based orders against the FSS schedules. These instructions are available on line. In addition, related guidance is being developed for the FAR.

The FTS Solutions Development Centers (SDCs), as part of their responsibility in properly managing governmentwide contracts, have developed training classes on performance based service contracting and to date, have trained 155 FTS personnel. In order to help track governmentwide agency performance in awarding performance based service contracts, a data element, addressing whether a contract was performance based or not was added to the Federal Procurement Data System as of Oct. 1, 2000. There has been insufficient time to measure the extent performance based service contracts are being awarded.

In GSA's view, what government-wide mechanisms can be implemented to address these challenges?

Performance based contracting is not intuitive. To be successful this initiative must start with the requirements community when the requirements statement is being drafted. Our folks need to be trained to think in terms of the outcome they desire as opposed to the method for obtaining that outcome. They must then understand how to develop, or have the offeror develop, performance metrics that will let them know whether they are obtaining the outcome they desire and finally the payment methodology in government contracting must be changed so that contractors only get paid when they deliver something of value and only get profit when they perform at or above the satisfactory level. To achieve this, an intensive education and training program is necessary. In addition we need to provide tools to the entire GSA acquisition community for the development of performance statements and centers of excellence to share knowledge and lessons learned.

Q: What steps has GSA undertaken to identify acquisitions that are suited for cross-agency purchasing? Has GSA identified regulatory barriers to horizontal acquisitions?

What steps has GSA undertaken to identify acquisitions that are suited for cross-agency purchasing?

By cross-agency we mean inter-agency - across the Federal government. GSA meets with its customers from across the government regularly to determine what new requirements they have and how those requirements can best be satisfied. These meetings are currently held at the service level. In the future because of the trend towards purchasing integrated solutions and the need to provide more added value services for our customers it may be necessary for these types of meetings to be held at the corporate/central office level.

Has GSA identified regulatory barriers to horizontal acquisitions?

The concept of horizontal acquisition in terms of today's environment has not been fully fleshed out. We believe that the key to success is less about technology and more about behavior. Clearly, there will be more need to level the acquisition workload across the enterprise of government as we try and meet the challenges our aging workforce presents and the fact that we do not have enough folks in the workforce to replace the ones who will be retiring. Add to that the fact that the nature of the acquisitions we conduct are becoming more complex and require greater expertise than we have ever required of our workforce before and the need to redefine acquisition as a horizontal function of government becomes self-evident.

If the concept of horizontal acquisition is to become a reality, there needs to be cooperative efforts among the CIO, CFO and Procurement Executive Councils to facilitate the elimination of stovepipes to allow for like standards for members of the acquisition workforce and system architectures across the enterprise of government.

Q: Has GSA developed best business practices for contracting? If so, how were these guidelines developed?

GSA is in the process of assessing the feasibility of establishing a knowledge management portal. The portal would provide access, at the desktop, for acquisition professionals, of useable, recent and relevant, information about acquisition issues including best practices for contracting. One of the aspects of this portal will be to capture the intellectual capital generated by our acquisition workforce and then share that knowledge across the enterprise of GSA and the federal acquisition community.

If so, how were these guidelines developed?

There are no guidelines in place today; however, we are in the process of establishing those guidelines for use with the portal. Phase I of the project, a feasibility study has been completed. Phase II, looking toward specific technology solutions is awaiting funding and Phase III, a beat test of a solution is forecast for late FY 02 or 03

Q: Share-in-savings contracting is an innovative tool that would allow agencies to better leverage limited resources for a greater return on investment. This contracting tool is not widely utilized today. What efforts has GSA undertaken to promote share-in-savings contracting?

Share-in-savings contract are basically a form of incentive contracting in which the government agrees to share with the successful offeror savings the contractor is able to achieve through contract performance. These savings become a cost avoidance which then make available resources for other priorities within the government. Share-in-savings is not a method to contract for unfunded requirements.

GSA's Public Building Service issues share-in-savings contracts under the authority of the Energy Policy Act for energy retrofits and other energy savings initiatives in public buildings. In FY2000 GSA had 13 utility financed projects in place and 7 Energy Service Performance Contracts. The annual dollar savings anticipated from the contracts currently in place is $4.8 million. PBS is seeking to maximize the use of available alternatively financed contracting mechanisms and is actively exploring additional opportunities in this area.

The Federal Technology Service is also actively promoting the use of share-in-savings for information technology programs through advertising, conferences and articles about the benefits of the program. FTS established a full Center of Expertise to assist agencies in understanding and implementing this important concept. FTS also has developed a website that allows agencies to evaluate prospective share-in-savings opportunities to determine if they present a reasonable risk and high return on investment. If they qualify, FTS will offer agencies value-added services that include project management, the development of business case analysis and the statement of work, and procurement support where needed.

FSS establishes schedule contracts for commercial items and services. FSS has not participated in any share-in-savings contracting yet. However, it is considering possible Energy Savings Performance Contract (ESPC) application in two areas. The first is the installation of chillers for

Federal buildings. Additionally, FSS has a solicitation open from its Management Services Center in Auburn, WA, for energy management (Solicitation No. TFTP-EJ-000871-B). As we move forward we will develop guidance as necessary to address any authorized use of share-in-0savings contracts through the FSS schedules.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much.

Dr. Kelman, welcome.

Mr. KELMAN. Congressman Schrock, this trivia contest was—the students had a great time; Chairman Davis and I had a great time, a good bipartisan team, and just to repeat a point he made, we did emerge victorious from this contest.

But, Mr. Chairman, I just wanted to share with you, I was listening a few nights ago to "The Top Ten at 10:00" on the oldies station in Boston. It was the top 10 last week in 1969. And I remember you asked a question, which of course the students flubbed, about who did the title song from the musical "Hair," which of course was——

Mr. THOMAS M. DAVIS OF VIRGINIA. The Cowsills.

Mr. KELMAN. The Cowsills, of course. [Laughter.]

Now here's the interesting thing: This week in 1969, that was No. 2. Do you know what was No. 1 that week? Fifth Dimension, Age of Aquarius. So two songs from "Hair" were one and two that week in 1969.

Mr. THOMAS M. DAVIS OF VIRGINIA. That will add a lot to the record, and I appreciate that. [Laughter.]

Mr. KELMAN. Yes, I'm sure it will. I'm sure it will.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you.

Mr. KELMAN. Let me move to a more interesting topic, government procurement. I wanted to highlight, if I could, two areas from my written testimony. Let me also thank Chairman Davis, Congressman Turner, and Congressman Schrock for inviting me here today.

I want to talk, first, about share-in-savings contracting, which is I think one area that is ripe for legislation right now. Let me also, before I talk about it, briefly, just for the interest of full disclosure, indicate that I've done consulting for Accenture, formerly Andersen Consulting, on this issue.

What is share-in-savings contracting? Share-in-savings contracting begins by looking at the benefits in terms of lower costs or improved agency performance that the government is seeking from a contract. Then what it says is, we pay the contractor as a percentage of the benefits that the contract actually realizes. So the more the savings, the more the benefits from the contract, the more the contractor gets paid. The fewer the savings, the less the contractor gets paid. In fact, in some versions of share-in-savings contracting, if the contract fails and doesn't deliver any benefits at all, the contractor isn't paid at all.

We still have, unfortunately, too many IT projects that fail, and I think we should see share-in-savings contracting mainly as a way to increase the success rate of our IT service contracting in the Federal Government by creating this dramatically increased incentive for the contracts to do well. The more they deliver for the government, the more money they make, as they should. If they don't deliver for the government, they don't make money.

Mr. Chairman, you indicated in your opening statement, you talked about the first share-in-savings contract in the information technology area that was signed last year within the Federal Government. We now actually have a track record under that contract. This week's Federal Computer Week features a story about that

first share-in-savings contract that you referred to. The cover says, "Share-in-Savings Contract Earns High Marks," and the story says, "Education share-in-savings contract grades A." The contract came in on time. It's successful. It's already delivering about $3 million—by January, it delivered about $3 million in savings. The Education Department official was quoted as saying in the story, "It's truly awesome. We didn't pay anything until we achieved our business results. This is the way the government will be doing business in the future."

Share-in-savings contracting isn't easy. I think it has a lot of promise. I think that GSA's Federal Technology Service, under the leadership of Commissioner Sandy Bates and Ken Buck, deserve a lot of credit for the work they have been doing over the last few years to try to expand knowledge and interest in this.

In my written testimony, I suggest a number of legislative changes that I would urge Congress to make as expeditiously as possible to try to encourage share-in-savings. Again, I discuss some of those in my written testimony.

The other topic I'd like briefly to address in the area of service contracting is what I call contract consolidation, sometimes called "contract bundling." This really fits into the category of the Hippocratic admonition, "First do no harm." Because, unfortunately, there are lots of proposals for dangerous overregulation in this area that continue to emerge from parts of Congress, although, happily, not from this committee.

Although contract consolidation is certainly not always appropriate, frequently this is a contracting method that brings great value to the government. When buying products, contract consolidation often allows a buyer to get significant quantity discounts—buying in bulk, every child knows, if you buy in bulk, you save money—better terms and conditions on the contract, and more attention from the supplier because we're a larger customer for the supplier.

When buying IT services involving business process modernization, the alternative to contract consolidation will generally be to have a whole bunch of legacy contractors continuing to work and the government having to act as a systems integrator for this kind of effort, which we know from long experience is a recipe for disaster.

So, for these reasons, purchasing departments in commercial firms generally regard contract consolidation, or appropriate contract consolidation, as one of their core responsibilities in the best practice.

If I can just briefly—I, actually, last night happened to get two annual reports from companies I happen to own stocks in. They just literally came yesterday. I was reading them, reading them last night, and both of them refer in their section on achievements for the last year about things about contract consolidation. One of the reports says, "We use our considerable purchasing power to negotiate favorable pricing and improve our ability to recover repair costs under manufacturers' warranties."

The other, which is an Internet business-to-business e-commerce company, talks about on behalf of one of their customers, "The customer uses the system to concentrate its total purchasing volume

through common suppliers and immediately experienced savings, an average of 15 percent in various indirect product categories."

Contract bundling or contract consolidation is already an area that is very extensively regulated, in my view overregulated. I urge the committee to beware of proposals, particularly coming from other committees, in this area. This is an area of this committee's jurisdiction, and I very much hope you will continue to exercise your traditional responsibility on taxpayers' behalf to avoid very costly and dangerous legislation in this area. Thank you.

[The prepared statement of Mr. Kelman follows:]

TESTIMONY OF STEVEN KELMAN, PROFESSOR OF PUBLIC MANAGEMENT, HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT, BEFORE THE SUBCOMMITTEE ON TECHNOLOGY AND PROCUREMENT POLICY, HOUSE COMMITTEE ON GOVERNMENT REFORM

Chairman Davis, Congressman Turner, thank you for the opportunity to testify before this committee. The federal government spends about $200 billion a year buying products and services, about 40% of the discretionary budget. Over the past decade, a bi-partisan effort has succeeded in improving our procurement system in a number of ways. This has been a success story for government reform and for the ability to solve problems across party lines. The news from the procurement front lines, by and large, is pretty good. You have asked for suggestions about next steps.

You asked witnesses to address performance-based contracting. -- where the government specifies the mission-related results it expects from the contractor. The government is making progress in this area. Two extremely important logistics modernization efforts being undertaken by the Army and the Defense Logistics Agency feature very aggressive performance measures and performance commitments by the contractors. These are important performance-based contracts. I have been impressed, during a recent round of interviewing program officials in a number of agencies in connection with a paper I am writing, that trying to make their service contracts more performance-based is definitely an issue that is on people's radar screens.

This initiative began during the first Bush administration, continued during the Clinton administration, and remains a procurement policy priority for the current administration. This is a good example of the kind of consistent signal over time that we need if we are to make progress in government reform. Moving to performance-based

contracting is often tough. There remains a long way to go. We can make progress only by staying consistent and keeping up the same message, so that people don't think this is just another management fad or "flavor of the month." The main role the Committee can play in this regard is to signal its continued interest in moving our service contracting in a performance and results-oriented direction.

One area where I believe legislation would be helpful is in encouraging what has come to be known as "share-in-savings" contracting, which reflects a further development of performance-based contracting – a sort of turbo-charged performance-based contracting, as I have sometimes called it. Share-in-savings contracting begins by looking at the cost or performance benefits the government hopes to attain from a contract. In share-in-savings contracting, the contractor is paid, all or in part, as a percentage of the savings or other benefits that are actually realized by the contract. The more the benefits, the greater the payment to the contractor. The fewer the benefits, the less the contractor is paid. If the contract fails to achieve any benefits, the contractor, in some versions of share-in-savings contracting, will be paid nothing.

We still, frankly, have far too many IT projects that fail. Share-in-savings contracting should be seen as a way to improve the success rate of the government's IT investments. The reason is that this method aligns the incentives of the government and the contractor. The contractor can – and should – profit handsomely for delivering a high level of benefits. But the government transfers the risk to the contractor for efforts that achieve no results. The contractor can succeed only by delivering results to the government.

We see an example of this in the latest issue of Federal Computer Week, which features an article on the first IT share-in-savings contract in the federal government, an effort by the Department of Education as part of the modernization of its IT systems for the college student loan program. "Education share-in-savings contracts grades A," the headline reads. We need more headlines like this for our IT projects!

Unfortunately, some agencies looking for possible share-in-savings projects have been looking in the wrong places because they see the share-in-savings method in the first instance as a way to undertake an IT project without using appropriated funds, rather than seeing it in the first instance as a way to improve the chances for success in IT investments. When they look at projects that are having difficulty gaining regular appropriated funds, they will find mostly projects with a low return on investment. Almost by definition, low ROI projects don't generate enough return to fund the contractor out of savings or mission benefits.

Instead, agencies should be seeking out potential share-in-savings projects from the projects at the top of their investment lists – the projects with the highest ROI and the greatest strategic benefits for the agency, the ones the agency most needs to succeed.

Share-in-savings contracting is not easy. GSA's Federal Technology Service, under the leadership of Commissioner Sandy Bates and of Ken Buck, deserve credit for keeping this idea alive.

Now, with the first IT share-in-savings success story in hand, there are ways Congress can help. I urge the adoption of legislation that would:

- Establish share-in-savings contracts as a contract type in the Federal Acquisition Regulation;

- Consistent with existing legislation establishing share-in-savings type contracts for energy conservation in federal buildings, allow these contracts to be undertaken as multiyear contracts without upfront funding of termination liabilities;
- Direct OMB, in cooperation with GSA, to work actively with agencies to seek out share-in-savings opportunities, to develop a best practice guide on share-in-savings contracting, and, very importantly, to work to develop methods that would allow agencies to keep a portion of the savings these efforts generate over a period of several years, to give agencies an incentive to make the effort to develop these kinds of contracts.

The Committee has also asked witnesses to address issues of the training and future roles of the acquisition workforce. This is a crucial issue, and I am pleased that this Committee seeks to address it.

We have two fundamental issues we need to address. One is the general issue of making the federal government an attractive workplace for talented young people. The second is the specific issue of how to retain the necessary program and technical expertise within the government to appropriately select, partner with, and monitor contractors in an environment where the government is increasingly contracting out the frontline technical work. Put simply, the question is: how can we manage IT contractors if the government no longer has its own "techies" who have risen through the ranks as programmers or database managers and who know the technology well enough to manage the contractor?

It is difficult to give quick or easy answers to these questions. The new contracting techniques that are a product of procurement reform will help. The use of performance-based contracting, where the government plays far less role in directing contractor work, makes it possible for the government to exercise its responsibilities with lower levels of in-house technical expertise. So does the increasing role of past contractor performance – how well the contractor has succeeded on earlier jobs –in choosing winning bidders.

Part of the solution, I believe, requires a change in cultural practices, in some civil service laws and regulations, and probably in salary and benefits at mid-management levels, to make it easier for the government to hire technical experts directly at the GS-13 through GS-15 levels, who would gain their technical expertise in industry and then do a few years of public service working for the government without expecting to stay in government for an entire career. I would like to see American industry, starting with government contractors but extending beyond to American industry in general, help our country by encouraging some of their employees to undertake several-year public service engagements.

Finally, I wish briefly to address an issue involving service contracting that falls in the category of the Hippocratic admonition, "First, do no harm." This is the issue of contract consolidation, sometimes known as "bundling." Unfortunately, proposals for dangerous over-regulation in this area of contracting policy continue to emerge from parts of Congress, though happily not from this Committee.

Although contract consolidation, or "bundling," is certainly not always appropriate, frequently it is a contracting policy that adds significant value for the

government. When buying products, contract consolidation often allows a buyer to get significant quantity discounts, better terms and conditions, and more attention from suppliers. When buying IT services involving business process modernization, contract consolidation is necessary if the government is going to avoid acting as its own systems integrator of a host of smaller contracts, an approach that extensive, bitter experience shows is a recipe for failure.

For these reasons, the purchasing departments of commercial companies regard it as one of their core responsibilities to seek appropriate opportunities for contract consolidation. An entire industry of consultants exists to help commercial companies locate opportunities for contract consolidation in their own organizations. In the private sector, this is considered a purchasing best practice.

The knee-jerk opponents of so-called "bundling" are like trade protectionists, who seek to protect every existing small business with an existing government contract, even at the cost of imposing large costs on taxpayers. This is just plain wrong. Just as we do with free trade in providing adjustment assistance to individual workers who have been harmed by free trade, we should aggressively seek government contracting opportunities for small businesses where they are competitive and create value for the taxpayer, rather than preserving every existing government contracting opportunity even when this makes no business sense.

"Contract bundling" is already highly regulated, in my own view over-regulated. The last thing the taxpayer needs is even more-restrictive regulation imposed by Congress. Any legislation in this area is within the jurisdiction of this Committee, and I

strongly urge you to exercise this Committee's traditional role as guardian for the taxpayer against special interests.

Mr. Chairman, Congressman Turner, thank you again for the opportunity to appear before your Committee. I would be pleased to do my best answering any of your questions.

Mr. THOMAS M. DAVIS OF VIRGINIA. Dr. Kelman, thank you very much.

Mr. Mutek.

Mr. MUTEK. Mr. Chairman, Congressman Turner, Congressman Schrock, thank you for this opportunity to testify before you today. I am Michael Mutek, and I appear on behalf of the Professional Services Council. PSC has been an outspoken advocate of acquisition reform since its founding some 30 years ago. We are proud to have been involved in these efforts, particularly over the last decade, during which we have witnessed a significant transformation in the way the government procures its goods and services.

The acquisition reforms of the 1990's gave government buyers more freedom to define program requirements with performance objectives, which you heard about; make price-quality tradeoffs; streamline the competition process, and also emphasize past performance in contractor selection. Also, the reforms of the 1990's acknowledged that, through the imposition of unique burdens and risks, the Federal procurement process could raise prices and discourage companies from doing business with the government.

We agree with the GAO. Its testimony today is in line with what we have advocated for a long time. Specifically, education and training is the acquisition work force tool to achieve acquisition reform. Real, meaningful, and important progress has been made. Most observers would agree that acquisition reform ranks with one of the real success stories over the last decade. It is the result of a collaboration between Congress, agencies, and the private sector. This collaboration needs to continue.

However, despite this progress in transforming the largest buying organization in the world today, the Federal Government, more improvements are needed. There still are too many non-value-added requirements and processes that remain. We must ensure our focus is on performance and not the process itself.

In addition, more work is needed to enable the government to access more fully the innovation and technologies available in the private sector. Nowhere is this truer than in the buying of services. The record is clear that much of the government's historic emphasis has been on how to buy products faster, better, and cheaper. The acquisition of services has received little attention. However, as our economy overall has moved to become a service economy—and services now comprise the majority of government procurement—it is vital that greater attention be paid to how the Federal Government acquires these services. These services are vital to the government. Yet, the processes by which the government buys services has lagged. The question is, what more needs to be done to ensure that these professional and technical services are acquired in a cost-effective and efficient manner?

The first critical issue is education. By enacting laws and implementing regulations, we do not create change. The government must devote adequate resources to the most critical element of success reform, which is the training and education of the work force. Training has not kept up with the reforms or with the capabilities of the services sector. As a result, the issue in the professional services arena, where the services are much more complex, is how the Federal Government work force can gain a better understand-

ing of the services market, and particularly what's available commercially, and how the services sector can, and should, be leveraged in the Federal marketplace.

Congress must make a determined effort to ensure that training resources are made available and are a top priority among all agencies. In the past Congress has attempted to get agencies to make training and education a higher priority, but the investment has not been made. Training is just too easy an item to cut or delay.

We propose that Congress require that a percentage of administrative fees, perhaps 5 or 10 percent, be collected through the governmentwide, multiple-award contracts and/or purchases from the GSA schedule, and devoted to the Federal Acquisition Workforce Training Fund. Our vision is that these funds will be forwarded to the Federal Acquisition Institute where they could be made available throughout the government to provide training.

The second critical issue is successful implementation of performance-based service acquisition, something we've heard quite a bit about today. This allows the government to move away from dictating processes and permits the private sector to offer innovative solutions to complex problems. As you know, this is one of the first major initiatives of the Office of Federal Procurement Policy, under Dr. Kelman, and has been successful, but there still is more that needs to be done and that is adequate training of the work force.

Third, we recommend that Congress extend to the civilian agencies the same authority now available to the Department of Defense to purchase services under FAR Part 12. Extending this authority would incentivize both the use of performance-based strategies and open a door to new and innovative solutions for a broader cross-section of the services industry.

Fourth, the PSC advocates a horizontal, rather than vertical, integration of acquisition functions. Such an integration helps to promote vital cross-functional involvement in acquisitions.

And fifth, it is time to re-evaluate the role of the Service Contract Act as it relates to the mid-to high-end services. The Service Contract Act was designed to cover those for whom the marketplace offered inadequate protection. Today's robust marketplace has changed. We offer you some ideas on this in our written material.

Finally, it is vital that the government recognize that technology itself is not the solution, but rather the enabler. There must be a real emphasis on re-engineering processes rather than simply automating legacy systems.

Mr. Chairman, your leadership, and that of the subcommittee, is essential and greatly appreciated. We look forward to working with you and your staff. Thank you.

[The prepared statement of Mr. Mutek follows:]

Testimony of

Michael W. Mutek
Senior vice president and general counsel
Raytheon Technical Services Company

On behalf of
The Professional Services Council

Before
The Committee on Government Reform
Subcommittee on Technology and Procurement Policy

May 22, 2001

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Michael W. Mutek
Senior vice president and general counsel
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On behalf of
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Before
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Mr. Chairman, members of this Subcommittee, I thank you for this opportunity to testify before you today. I am Michael Mutek, senior vice president and general counsel for the Raytheon Technical Services Company. I appear today on behalf of the Professional Services Council, the principal national trade association of professional and technical services providers to the federal government. I serve as chairman of the PSC's Government Affairs Committee.

PSC's members provide the full range of services including, but not limited to, research and development; information technology; program design and high- level analyses; engineering, maintenance, and support services; and sophisticated financial and business process consulting. This sector performs more than $400 billion in services annually, including more than $100 billion in support of the federal government, a figure expected to grow significantly as the federal government takes advantage of the innovation and technologies available in the private sector.

PSC has been an outspoken advocate of and contributor to government acquisition reform since its founding some 30 years ago. We are proud to have been integrally involved in these efforts, particularly over the last decade, during which we have witnessed a significant transformation in the way the government procures goods and services.

Make no mistake about it. Real, meaningful, and important progress has been made in the federal procurement world. Indeed, most observers would agree that acquisition reform ranks as one of the real success stories of the last decade. It is the result of a robust and ongoing collaboration between agencies, Congress, and the private sector. This collaboration must continue. However, despite the remarkable progress that has been made in transforming the largest buying organization in the world -- the federal government -- more improvements are needed. Too many non-value added requirements and processes remain. We must ensure that our focus is on performance and results and not the process itself. In addition, more work is needed to enable the government to access more fully the innovation and technologies available in America's private sector.

Nowhere is this truer than in the buying **of services**. The record is clear that much of the government's historic emphasis has been on how to buy **products** faster, better, and cheaper. Acquisition of services has received little attention. However, as our economy overall has moved to a service economy -- services now comprise the majority of government procurement -- and it is vital that greater attention be paid to how federal agencies acquire services.

During the past decade, commercial technologies and the sophisticated professional services that support them have advanced. These commercial services are vital and the government must be able to attract companies that provide world-class services. Parallel processing, networking, the Internet and new storage and retrieval technologies have created tremendous opportunities for creative solutions for missions, offices, and even individual workstations. The demand for creative professionals who can handle information for government users, and help them to sift, store, retrieve, display, and send information by satellite, hard wire or secure transmission, has exploded. Professional services such as information management, software development, and systems integration are at a premium in this new, technology-driven world. Yet the

processes by which the government buys these premium services have lagged, despite reforms. The integration of off-the-shelf technologies and software products is an important and essential professional service. Defense communications systems depend on them; nuclear safety depends on them; shipboard systems depend on them; targeting systems depend on them, health services depend on them; and many other critical functions depend on these services.

The question is what more needs to be done to ensure that these professional and technical services are acquired in a cost-effective and efficient manner?

The reforms of the 1990s recognized and sought to address the fact that the procurement process, through the imposition of government-unique requirements and burdens, increased costs, reduced innovation, and discouraged entry by commercial companies. Although the reforms of recent years, including best-value procurements, the use of past performance to evaluate suppliers, and greater communication between buyer and seller, are equally applicable to services and hardware, a number of critical services-specific issues remain.

The first critical issue is training and education. PSC strongly believes that enacting laws and implementing regulations do **not**, by themselves, create a perfect system. In fact, new laws and regulations can lead to a period of chaos that could tempt some to revert back to old, familiar, comfortable ways. The government still has not devoted adequate resources to the most critical element of successful reform: the training and education of the acquisition workforce. Training clearly has not kept up with the rapidly expanding technology and services capabilities that the contracting offices have to buy. For example, it is not uncommon for old standard forms with outdated terms and conditions to be copied and used over and over again. We urge you to make training your key focus as you examine services acquisition reform.

The acquisition workforce is being asked to do business in a new world and is not being provided the training and tools to enable them to procure and manage a complete array of services. The challenges become ever greater as professional services become more complex, developmental, higher-risk, and information technology intensive. Federal acquisition professionals need a keen understanding of the services market and how the services sector skills can and should be leveraged in the federal marketplace. Without this, the federal government will not access the most cutting-edge and effective solutions and companies that can provide them.

Congress must make a determined effort to ensure that training resources are made available and are a top priority among all agencies of government, but particularly in the civilian agencies. For example, at least one small civilian agency has a TOTAL training budget for its acquisition workforce of only $2500.

In the past, Congress has attempted to get agencies to make training and education a higher priority, but an adequate investment has not been made. Training is just too easy an item to cut or delay. For the most part, problems that have been identified in connection with the management of services contracts can be traced to inadequate guidance and training resources for the acquisition workforce. Even matters as straightforward as competition requirements associated with purchases off the GSA schedules or government-wide agency contracts are not fully understood by the workforce because training opportunities are so limited.

Thus, we propose that Congress require that a percentage of all administrative fees, perhaps 5 or 10 percent, collected by agencies through government-wide multiple award contracts and/or purchases from the GSA schedules be devoted to a federal acquisition workforce training fund. Our vision is that these funds would be forwarded to the Federal Acquisition Institute (FAI). FAI would then be charged by Congress to use the monies to contract with world-class training providers to develop and make available throughout the government, web-based and other distance learning tools covering the

critical and ever-changing areas of federal acquisition. The educational offerings should include, for example, performance-based acquisitions, how to acquire services off the GSA schedules or through the use of government-wide contracts called GWACs, and use of commercial acquisitions. Such a focused initiative would go a long way toward providing the federal workforce the tools that they need to do their jobs in a dynamic, innovative, and increasingly technological environment.

The second critical issue relates to the successful implementation of performance-based services acquisitions. Performance-based services acquisition allows contracting efforts to move away from government-dictated results and permits private sector companies to offer innovative solutions to complex problems. As you know, one of the first and most important acquisition reforms of the last decade was the Office of Federal Procurement Policy's emphasis on the use of performance-based acquisitions for services. Also important was the Department of Defense's move away from military specifications and standards. These initiatives allowed the federal government to tap into creative capabilities and innovations of the private sector and increase the technological options available to the federal government. Performance-based service acquisition means that the customer specifies the outcome or result sought, but not the process. It allows innovation and creativity, and facilitates best-value determinations.

There is widespread recognition that pursuing performance-based services acquisitions is smart business. The Office of Management and Budget has estimated that using performance-based strategies can reduce costs by as much as 18 percent. At DoD, policy now dictates that 20 percent of all services be acquired in a performance-based manner by 2002 and 50 percent by 2005.

But enacting a law or drafting an implementing regulation or policy directive will not achieve automatically the desired result in the acquisition process. As previously noted, adequate training is critical to effective implementation and achievement of the benefits

of acquisition reform. True performance-based services acquisition remains the exception rather than the norm. Achieving the worthy goals stated by DoD policy and last year's legislation requires real training investments. Performance-based services acquisition is hard and we cannot implement this particular reform without training.

Achieving performance-based goals also requires recognition that a performance-based environment is a team environment. This is true both internal to the government where the cooperation of different functional organizations is critical; and external, where real partnership with private sector suppliers is essential. This is partnering, a best practice in the private sector. It can result in a more cooperative and productive working arrangement. The private sector follows this model today and it is one the government can and must emulate. You will note that I have not used the term "performance-based contracting" at all. This is not just a contracting effort; it is an acquisition process that must be approached in an integrated manner.

Third: We recommend that Congress extend to the civilian agencies the same authority now available to the Department of Defense to purchase services under FAR Part 12. DoD is now permitted to treat the purchase of virtually any service under the streamlined commercial item procedures of Part 12, as long as the acquisition is performance-based. Extending this authority would both incentivize the use of performance-based strategies and open the door to new and innovative solutions from a broader cross-section of the services industry. In particular, access would be gained to the part of the private sector that currently does not do business with the government, primarily because of the many non-value added burdens associated with traditional government contracting. Congress created FAR Part 12 precisely for this reason—to reduce the costly and burdensome requirements associated with acquiring commercial products and services. The authority we seek, which already is available to DoD, would expand that initiative in a meaningful way. Additionally, FAR Part 12 unduly limits the types of contracts that may be used. We recommend that the scope of FAR Part 12 be expanded to include all contract types prevalent in commercial contracting.

Fourth: PSC has long advocated a horizontal, rather than vertical, integration of acquisition functions. Such an integration immeasurably helps to build integrated process teams (IPTs), and promotes vital cross-functional involvement in acquisitions where all relevant offices and disciplines work together in a team or partnering format. DoD has done this with its IPT structures for hardware acquisitions and now is the time to find ways to emulate that model across the government for the acquisition of services. Such a strategy would promote higher levels of customer support, and more efficiency and innovation in the acquisition and execution phases. To that end, we recommend that Congress direct the Procurement Executives Council (PEC) to develop and report back to Congress within 9 months on a means by which such horizontal integration can be effected. The PEC also should be charged with a requirement to develop a set of training requirements for the civilian acquisition workforce.

Fifth: It is time to re-evaluate the role of the Service Contract Act (SCA) as it relates to mid to high-end services acquisitions. Specifically, the SCA definitions have not been updated for more than a decade. The SCA was designed to cover those for whom the marketplace offers inadequate protection. Today, significant portions of the technology workforce, the most robust and competitive workforce in the marketplace, remains covered by a government prevailing wage rate bearing little resemblance to the realities of the marketplace. For highly skilled and sought after workers, the SCA can serve precisely the opposite purpose from what it was designed to do in that it can become a ceiling, rather than a floor, for wages paid to the contractor workforce. This reverse impact can be addressed simply, without impacting the overall intent or benefits of the SCA, by redefining the outdated "Automated Data Processing" exemption in more contemporary, technology terms. PSC would be happy to provide specific suggestions as to new definitional language should this Subcommittee so desire.

Finally, as we move further into the technology age, it is vital that the government recognize that technology itself is not the solution, but rather an

enabler. To access fully and optimize technology enablers -- where technology allows services providers to develop cutting-edge solutions to complex organizational, logistical, and conceptual problems -- the government must do what the private sector has learned, sometimes the hard way. That is, there must be a real emphasis on re-engineering processes, rather than simply automating legacy systems and processes. In the government, the landscape is littered with examples of antiquated processes and systems not being subjected to the kind of fundamental reshaping and re-engineering that now is commonplace in the private sector. As this Subcommittee considers initiatives that can enhance the government's acquisition and management of services, we believe a focus on re-engineering will be a vital component. To that end, we would like to see this panel authorize additional "process re-engineering pilot programs" to allow and incentivize agencies to seek out aggressively better processes that help accomplish their missions.

Mr. Chairman, your leadership and that of this Subcommittee, is essential and greatly appreciated. We look forward to working with you and your staff as you continue to review and assess options for new legislative and other means to improve the government's acquisition of services. We have seen a marked improvement in the environment over the last several years, but feel that more can and should be done.

Thank you again for this opportunity to testify today. I look forward to answering any questions that you may have.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much.

Mr. Wagner, thank you for being with us.

Mr. WAGNER. Thank you, Mr. Chairman, members of the subcommittee. My name is Mark Wagner, and I'm here on behalf of the Contract Services Association, which represents over 330 companies providing a wide array of services to the Federal Government.

My company, Johnson Controls, provides facility management and base operation support for a number of government agencies, including the Departments of Defense and Energy as well as NASA. We also provide facilities support for a large number of commercial private sector companies, such as Microsoft, Sun Microsystems, EDS, IBM, Compaq, and many others.

I might also note that it's a special pleasure to be before the subcommittee today, as I am a resident of the 11th District of Virginia.

Mr. THOMAS M. DAVIS OF VIRGINIA. That means I'm going to be pretty easy on you.

Mr. WAGNER. Pardon me?

Mr. THOMAS M. DAVIS OF VIRGINIA. I'll be pretty easy on you.

Mr. WAGNER. Yes, thank you. I was hoping so. [Laughter.]

Mr. Chairman, thank you for entering my statement into the record. I would just like to emphasize a few key points.

You were right in your opening statement. While much has been done to reform and streamline Federal acquisition policy with respect to purchasing hardware and equipment, improving how we contract for services has in the past been relegated much to the role of the lowly stepchild. We're delighted that you are considering promulgating a Services Acquisition Reform Act [SARA].

Areas that could be addressed include allowing longer contract terms to enable potential investment by contractors, encouraging more award-term contracts to reward good performance and penalize poor performance, revising profit policies and advancing the share-in-savings concept, which would encourage and reward innovation and efficiencies, and revising payment terms because it will be good for business, both government and the contractor. These and other issues are covered in detail in our written testimony.

I would like to take the remainder of my time to answer some specific questions that you posed in your invitational letter. You asked, Has the Federal Government undertaken strategic planning in its acquisition work force challenge? While good efforts have been made with respect to hardware acquisition, unfortunately, we don't see the same evidence on the services side. Much more needs to be done to train and attract good individuals in this field. As we have seen, the Federal Government is increasing the amount of services it purchases.

You asked to what extent the Federal Government used performance-based contracting. Many agencies are trying, particularly OFPP and DOD, but the results are less than stellar. Performance-based contracting is a powerful tool to unleash the full creative capability of contractors and bring more efficient, cost-effective services to the government, but it is not easy to write a good performance-based RFP. And it's even harder to evaluate competing proposals for award. But as long as we are wed to the old ways, telling contractors how to do business rather than the outcomes you want,

and an unwillingness to transfer process control from the government to the contractor, then the Federal Government will never gain the best thinking that service companies have to offer under performance-based contracting.

You've asked what barriers are there to share-in-savings contracting. Not enough contracts employ this splendid motivator for improvement in savings. If share-in-savings is allowed, often it doesn't reach its potential because there's an unwillingness on the part of the government customer to permit the changes and to transfer the process control to the contractor. Until contractors have control of their processes and are held to performance-based metrics, and the government stops telling how to do business rather than what they want, the shared savings will be inhibited.

You asked if the Federal Government's developed best practices for contracting. While there have been some attempts, they seem to be the exception, not the rule. In Federal contracting procurement, we do not see the best practices and processes that we see in our commercial private sector business, including the operational, financial, and contractual best practices. What we do see, unfortunately, in Federal procurement is a lack of standardized procurements and no uniform performance standards, even in common areas of service. Often this is only complicated by last-minute changes in bid requirements.

Finally, I'd like to add one question, and that is: What can the government do to reduce the cost of bidding and, therefore, increase competition? Bid and proposal dollars are limited within any company and across the industry, but the cost of bidding seems to keep escalating, which only dampens competition. And unlike some of our brethren companies on the weapons systems sides, we don't get our bid and proposal costs covered directly.

But if we can find ways to reduce the costs of bidding, more companies can bid more contracts, which means better competition for the government. There are a number of ways to consider holding down the cost of bidding, which I would be happy to discuss in detail later rather than take any more time this morning.

So, again, thank you for the opportunity, Mr. Chairman and members of the subcommittee.

[The prepared statement of Mr. Wagner follows:]

STATEMENT OF

Mark Wagner, Director -Federal Government Affairs
Johnson Controls, Inc.
Chairman, Public Policy Council for the Contract Services Association of America

BEFORE
Government Reform Subcommittee on
Technology and Procurement Policy

HEARING ON:
Federal Acquisition Reform Initiatives

May 22, 2001

Mr. Chairman, and members of the subcommittee, my name is Mark Wagner of Johnson Controls. I am here today on behalf of the Contract Services Association of America (CSA), the nation's oldest and largest association of government service contractors, representing over 330 companies that provide a wide array of services to the federal government as well as to state and local governments. I serve as the Association's chair of its Public Policy Council.

Johnson Controls, Inc. is a 116 year old Fortune 200 Company with global sales in buildings controls technology, automotive interiors, and facilities outsourcing for both government and commercial markets. We provide facility management and base operations support for the Departments of Defense and Energy, as well as NASA and other federal agencies. Our commercial customers include companies such as Microsoft, Sun Microsystems, IBM, Compaq, EDS, CSC, Hoffman-LaRoche, and Novartis.

I greatly appreciate the opportunity to be here today and to share with you our views on the federal acquisition process – what the recent reforms have done and where we need to go to further streamline the system, especially in the services contracting arena.

Acquisition Reform – Background

As far back as the Revolutionary War, shady practices, profiteering and kickbacks had characterized government purchasing. 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.

Over the years, there was little urgency or even a perceived need to reform the federal acquisition system. All that changed with 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.

Congress met the challenge of the changing times and enacted the Federal Acquisition Streamlining Act (FASA) in late 1994. 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. Subsequent reform efforts followed, such as the 1996 Clinger-Cohen Act, the FAR Part 15 rewrite and follow-on provisions in the Fiscal Years 2000 and 2001 Defense Authorization Acts (which included a commercial services pilot program, revisions to the Cost Accounting Standards Board and a preference for performance based service contracting). 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.

Services Acquisition Reform

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 growing and is an increasingly crucial part of the government marketplace. Until recently, contracting for services has been relegated to the role of the "lowly stepchild," while the spotlight shown on the major hardware and weapon systems procurement, which once represented the majority of the defense budget. But that has changed, with more of the defense budget now being spent on services.

As already mentioned, FASA and Clinger-Cohen initiated widespread reform in the practices used for acquiring weapon systems and other hardware related purchases. These reformed activities resulted in greater use of commercial contracting practices, which in turn yielded competitive costs savings, streamlined procurement time-lines, a broadened market place and greater availability of spares and support items. The pace of acquisition reform for weapon systems and hardware has outpaced any reform initiatives in acquiring services, which still operates much the way it did 20 years ago.

With tight funding for new equipment purchases, it is imperative that the existing items be supported more efficiently and effectively to sustain service life extensions. In the area of services acquisition, the way to achieve the same results as were realized from FASA and Clinger-Cohen is to promulgate similar reform initiatives that are being effectively deployed for hardware acquisitions – in essence, establishing a ***"Services Acquisition Reform Act (SARA)"*** equivalent.

As a start, we can look at some of the innovations and initiatives in the hardware and weapons systems arena that can bring change to the acquisition of services. These would include using vehicles such as SPI (Single Process Initiative) and Block Changes to accelerate the rate of change, eliminating requests for detailed cost and pricing data, and utilizing longer contract periods, just to name a few.

In December 2000, we responded to a Federal Register notice from the Office of Federal Procurement Policy that requested comments on methods by which the government may apply incentives to its contracts, thus creating "win/win" business arrangements between government and industry. We would hope that the ideas gathered from industry will be considered as your subcommittee moves forward on services acquisition reform. I would like to outline briefly the CSA comments, which included:

- **Allowing longer contract periods.** Real innovation does not occur until about the 2-3 year point, as the contractor becomes totally familiar with all aspects of the operation. Longer contracts (up to ten years with appropriate options) provide sufficient time to recover the cost of investing in technology, automation and equipment. These investments often are not possible under shorter contracts. In addition, partnerships have a real chance to flourish over the long term.
- **Revising profit policies.** Profit on contracts with the federal government is limited by both the FAR and by the attitudes of government contracting officials. In service work, profit margins are very low – often less than 5%. After taxes, unallowable expenses, and the cost of financing the operating capital required to perform the contract, actual profit margins for service contracts are typically less than 2 percent. Thus, it is clear that, in most instances, profit margins for service contracts are being controlled by competitive forces much more than by public law, regulations, or even the attitudes of contracting officials.
- **Encouraging Award term contracts.** This is based on the concept that, if the contractor performs well, it should be "awarded" with additional option years on the existing contract; the criteria for determining quality performance would be established at the onset of the contract. And, this method could be reversed to penalize non-performing contractors by shortening contract terms. This innovative concept guarantees the needs of the government are met, while giving the contractor an incentive to achieve or exceed the agreed-upon performance criteria.
- **Emphasizing contract efficiency.** This can be achieved through "level of effort" contracts and allowing for reinvestment of savings back into a contract. Such contracts provide incentives to achieve demonstrated efficiencies while still meeting mission requirements. An excellent incentive for enhanced contractor performance is to identify ways to "invest" recognized cost savings back into the contractor and the contract.
- **Allowing "share in savings."** In order to achieve the goal of acquiring services in a "better, faster, cheaper" mode, it is important that contractors be provided additional incentives to invest in cost reduction initiatives. One way of reducing such expenditures is to provide for an equitable sharing in the near-term savings that result from contractor investments in cost savings initiatives. One approach would be to institute a "value engineering" type of treatment for the investment costs. But the projected savings from such initiatives should then be shared with the contractor on a negotiated basis.
- **Revising payment Terms.** The main expense for a contractor providing services as opposed to "products" is labor costs. These expenses are incurred each and every day that personnel are employed. However, the government only pays in arrears several days (with up to 30 days in most cases still considered as being timely) after receipt of an invoice for a prior period and then only at intervals that are often far less frequent than actual payroll. To encourage greater participation of commercial businesses as well as provide incentives for government services contractors to continue to invest their resources in the government marketplace better payment terms are necessary that take into account this delay.

In addition, several services related reforms have been developed by the Acquisition Reform Working Group (ARWG), which CSA co-chairs; this is a coalition made up of industry trade associations representing both hardware and services contractors. 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. The ARWG proposals aimed specifically at reforming services contracting include:

- Broadening the available contract types to include standard **commercial-type contract vehicles,** such as "time and material" or labor-hour contracts. 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.

- Developing a definition for **commercial entities.** The current commercial items definition used for FAR Part 12 procurements still restricts access to a wider ranger of capabilities available in commercial enterprises. The current statutory definition has been interpreted narrowly in some cases to exclude internal components, processes, and services that have not themselves been directly sold in the commercial marketplace, even though they are intrinsic to the end items that the commercial entity does sell in the commercial marketplace. This new concept is particularly important for service contractors since the statutory definition of stand-alone commercial services is somewhat ambiguous and, thus, is subject to multiple definitions. FAR Part 12 is rarely used in service contracting because, while the company may believe the service is clearly commercial, the contracting officer often does not view it in that context. For many commercial service companies, this means a difficult choice – either forego the business opportunity or accept a contract under FAR Part 15 with its many Government-unique requirements (in these cases, often setting up separate divisions to handle the government work).
- Reforming the **Service Contract Act (SCA).** Enacted in 1965, SCA 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. At a minimum, the SCA threshold should be increased to $100,000 – the simplified acquisition threshold level established in FASA for many procurement statutes. The SCA threshold has not been increased from its current level of $2500 since the Act's enactment in 1965. This would help alleviate some of the administrative burdens on our nation's small businesses.
- **Revising the exemptions** under the Service Contract Act for commercial items. The imposition of SCA requirements on commercial subcontracts could increase costs to the government. Upon passage of FASA, the FAR Council initially released a rule exempting commercial subcontracts from compliance with SCA. Recently, the FAR Council rescinded this exemption and, in its place, the Department of Labor promulgated a rule outlining a complicated method for claiming an administrative exemption for a commercial item. Because of confusion and complications with the DOL rule, few contracting officers will bother to exempt commercial companies from SCA.

If enacted, these proposals will advance services acquisition reform and bring it into the 21st century.

Performance Based Contracting

Commercial and DoD practices historically relied on simple, arm's length contracts to acquire simple support services. The buyer would specify exactly what it wanted in a detailed statement of work (SOW), often including details on how the work would be done. The buyer would then hold a competition based almost entirely on the relative costs of offerors. It would pick the low-cost provider that demonstrated a threshold level of technical capability and rely on close oversight to ensure delivery of the services needed. This "outtasking" approach to acquiring services often led to a "bid-and-bash" acquisition regime, dominated by driving cost down and then bashing the supplier to demand delivery.

> *During the 1980s and 1990s, a growing number of commercial firms have discovered that they can get better, faster and cheaper performance by developing longer-term relationships with providers. These partnerships use an entirely different acquisition plan.... **The buyer determines what it wants; the provider determines how to provide this.***
>
> (A plan to accelerate the Transition to Performance Based Services: Report of the 912(c) Study Group for Review of the Acquisition Training, Processes and Tools for Services Contracts. Brigadier General Frank J. Andersen, Jr., USAF, 25 June 1999)

We must increasingly find ways to entice the best commercial firms to sell services to the government. When properly structured, performance-based service contracting (PBSC) holds great promise to reduce costs while increasing service quality. PBSC capitalizes on private sector expertise and leverages technological innovations. Plus, small businesses should benefit since they are known to be the most innovative sector of our economy. Recognizing this, an OFPP Policy letter was signed in 1991 to emphasize the use of performance requirements and quality standards in defining contract requirements, source selection and quality assurance. And, last year DOD decreed that 50% of all service contracts would be performance based by the year 2005. The new administration intends to extend this on a government-wide basis. Also, the defense authorization act for this fiscal year established an order of precedence for acquiring services, with a decided preference for performance-based contracts or task orders.

The main stumbling block to full and successful implementation of performance-based contracting remains training. PBSC requires the development of new evaluation techniques, new management approaches, improved market research methods and performance metrics standards – all of which require a whole new set of skills for the contracting officer. Both the 912 study and the DOD PBSC memo outlined the need for extensive training initiatives.

Acquisition Workforce

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. With acquisition reform, 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. Moreover, it is a system 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 consistently comes under budget pressures. We also will 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.

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, especially in the services contracting arena (which, to date, has been neglected).

In our December letter to the OFPP, we also outlined several ideas to improve training and education of the acquisition workforce. We recommended that appropriate government agencies develop multi-year career plans/paths for procurement officials and establish procurement workforce standards addressing special qualifications, educational requirements and experience for both current and new acquisition personnel. Leveraging private sector resources to develop or expand education and training programs should be pursued as the primary means of deploying new training and education techniques in a constrained budget environment.

We also recommended the development and utilization of a personnel exchange program between the government and private sector to promote a better understanding of and appreciation for acquisition issues confronting both parties.

Finally, recognizing that training is a two-way street, CSA has launched its own special acquisition training programs for its members, in addition to strengthening its existing programs on the Service Contract and Davis Bacon Acts. These opportunities are being leveraged by web-based applications, which will result in a cost-effective awareness with a potentially significant return on investment for government and industry.

"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. These concerns should be able to be addressed 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, such as 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.

In this mix, we must not forget the medium-sized business – companies that are too small to really go head-to-head with larger firms, but that no longer have the protections of the small business world. These companies are just as vital to helping us meet the government's requirements.

Summary

The role of government contracting is in an era of rapidly changing, commercially driven technological advances. A healthy, competitive and innovative industry meeting the federal government's needs, specifically those of our national defense, should be closely integrated with the commercial marketplace. Certainly, the road to acquisition reform will be filled with rough spots and abuses, some of them quite significant – but nothing that we cannot overcome.

Thank you for this opportunity to share my views with the subcommittee and I will be happy to answer any questions.

Mr. THOMAS M. DAVIS OF VIRGINIA. Mr. Wagner, thank you very much.

We will start the questioning with Mr. Schrock.

Mr. SCHROCK. Thank you, Mr. Chairman.

Gentlemen, thank you for being here. That was fascinating.

Mr. Cooper asked, one of the things he said, why won't performance-based contracts be easy? I want to ask him about that. Mr. Oliver said DOD can do performance-based contracts and likely will by 2005, unless I misunderstood you. Mr. Drabkin, it sounds like GSA is on its way to performance-based contracting. Dr. Kelman says we don't pay until we get results. That's the whole crux, I think. Mr. Mutek leans toward performance-based contracts, and Mr. Wagner said we need to reward good performance and innovation.

I guess, to go back to Mr. Cooper, you said, why won't performance-based contracts be easy? When I was in the Navy if I didn't perform, I didn't get promoted. When I was a stockbroker, if I didn't perform, I didn't get paid. Why can't we do that in government?

Mr. COOPER. I think the difficulty, and the reason I said it won't be easy, is again related to whether we have a work force in place that can implement that initiative and get the kind of results that everyone's looking for.

The concept of performance-based contracting goes back to the 1980's. It's been around a long time. Mr. Oliver mentioned that the Department of Defense issued a guide, some guidance, in December of just last year. We're just starting to see some guidance and tools being provided to the work force so that they can understand the concept and the procedures that need to be followed, things like having a very clearly defined work statement that is put forth in terms of what the government needs, not telling the contractor how to do it. The guidance also talks about a metrics for measuring whether, in fact, the performance is achieved, and it talks about having a performance assessment plan so that everyone understands how performance will be measured and how it will be translated into payment to the contractors.

So I guess what I'm trying to say is, until the work force gets used to this new kind of contracting and starts employing that type of contracting, it's going to be a difficult challenge.

Mr. SCHROCK. Mr. Wagner, you said, following up on that, Mr. Wagner, you said, why can't we write a good performance-based contract? My guess is Mr. Cooper outlined some of those. It's just we're getting in the way? I mean, when I say "we," I mean the Congress is getting in the way. Should we make it more simpler? Simpler, not more simpler, but make it simpler? And then when we do it, just not try to nickel and dime them to death? Is that what is causing all this?

Mr. WAGNER. Well, I think, first, you have to get there. What I always like to say is, if you can measure it with a ruler, it's not a performance-based RFP. I think there are good ones out there. In our business, base operations support, there are a lot of very similar services out there. We need to, I think, find some templates out there and share some things in terms of how you do that, what our metrics look like. I think oftentimes we find people at individ-

ual sites trying to reinvent the wheel and create this themselves. There's a lot of good stuff that's out there in the private sector. I think this needs to be disseminated and out there.

Now, certainly, with the metrics, it's individual within the site, but I do think that it is possible to do it. I just think it needs a true commitment and a sharing of some of those best practices to look where other people have done it and to look, reach out for those examples.

Mr. SCHROCK. I agree. Thank you, Mr. Chairman.

Mr. THOMAS M. DAVIS OF VIRGINIA. Mr. Turner.

Mr. TURNER. Mr. Wagner, you mentioned that the experience in share-in-savings and other contracting, innovative contracting techniques have not been very successful. Could you kind of bring this down to sharing with us a good example of some place where it really didn't quite work but it was tried in the government?

Mr. WAGNER. We've got a share-in-savings contract in one of our base operations support contracts out at Bangor sub-base in the State of Washington. It's in there. We have done some very innovative things to share some savings, but I do think that you've got to have an attitude to want to make some real fundamental changes out there. I think that's the exception. We have a number of base ops contracts; that's the only one we have that even has a share-in-savings provision in it. Again, I think it's the exception, not the rule.

When people are asked to be out there and be pioneers, frankly, the contract community is sometimes risk-averse. You know, they're a little tentative to make some broad changes here. I think we need to give them encouragement. I think we need to give them air cover. I think we need to ask them, "Why not?" Rather than say, "Where can you do this?" I think we've got to ask the question, "Why aren't you doing it all over?" And make sure that it is something that we instill as the rule here.

Second, I think the share-in-savings is really important in our commercial contracts where we have it. We're kind of joined at the hip with our partners. They want us to succeed, and we want them to succeed, and we're both very interested in making sure that both succeed because, when we do, we drive down costs, as opposed to oftentimes in the Federal Government the concern is oversight of the contract and are you doing the things that we're supposed to, rather than trying to be out there and be innovative and truly both be sharing in a partnership way.

There's some good examples out there. I'm not painting a broad-brush over words, but those are some real fundamental things that we've found in the commercial sector that makes the share-in-savings type of concept work.

Mr. TURNER. Maybe I ought to address this next question to Dr. Kelman, but when you think in terms of utilizing share-in-savings contracting in the government, what kind of things would distinguish between the use of those type of contracts in the government and the utilization of those contracts in the private sector that might be worthy of our consideration?

Mr. KELMAN. I think probably the biggest legal barriers involve the implications of the annual funding process. In a share-in-savings contract you have a stream of benefit as the contractor makes

an investment up front, and they're not paid, or only paid a little bit, up front. You wait until the government begins to see the benefits of that investment before the contractor gets paid. So the contractor has to get paid over a period of time based on the benefits that are then sort of thrown out in the outyears, so to speak.

Well, of course, we run generally by an annual appropriations cycle. Agencies generally don't have no-year money. There are abilities that were instituted in the Acquisition Streamlining Act of 1994 to allow what's called multiyear contracting, where you can sign a contract now that gives you some commitment, let's say, for example, to share savings in the future.

Right now, though, under that multiyear contracting authority, the agency needs to fund in advance any liabilities it might have to cancel the contract. So that can often be a lot of money, and that's been an inhibition to agencies being willing to do share-in-savings contracting.

There's a congressional precedent in the act Congress passed in 1992 which created share-in-savings contracts for energy conservation in Federal buildings. That's sort of one of the first uses of share-in-savings. It wasn't in the IT area. It was in a different area. In that legislation Congress said in statute that the agency did not have to fund these liabilities in advance; they could do the multiyear contracting without those. I think Congress ought to seriously look at using that same or creating that same ability for agencies in the area of share-in-savings in the information technology area or more broadly in the services area.

So that's one difference, and that's an issue the private sector folks don't have to worry about, that people in government get very scared about because the Antideficiency Act is a criminal statute and you'll have the contracting people say, if I violate this, I'm off to jail. And it gets a lot of them very scared about doing share-in-savings contracting.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much.

Mr. Kelman, I read your statement. There you're concerned that the share-in-savings contracts could be used just because you don't have the current year money in some cases, and that's really the wrong utilization? It could certainly be a factor, but it would be the wrong utilization.

There's also the problem of contractors walking off with tremendous profits coming from some of these share-in-savings contracts, which would be fine because you share the risk and there has to be a good potential upside or you're not going to get people in, but then you get the public perception, when they hold up the ashtray or something and say, "Gee, look what we're paying for." It's subject to a lot of demagoguery. So I do think you do have to, as Mr. Wagner said, you need to prop up some of these contracting officers and some of these procurement officials to let them know this is OK. Otherwise, a lot of this stuff will never get done. Is that a fair——

Mr. KELMAN. Yes, I think we have to get away from the destructive attitude that says, in effect, it's OK if the contractor performs poorly or performs marginally, or whatever, as long as they don't make a lot of money. It's almost like a lose/lose kind of approach

that says, we don't care if the contract doesn't perform that well as long as they don't make too much money. We should instead be trying to move toward a win/win environment where the contractor makes more money the more they succeed on behalf of the taxpayer, on behalf of the——

Mr. THOMAS M. DAVIS OF VIRGINIA. It's like a contingency almost?

Mr. KELMAN. Absolutely.

Mr. THOMAS M. DAVIS OF VIRGINIA. That's what it's like, a contingency fee in the law.

Mr. OLIVER. I don't think that's the problem right now.

Mr. THOMAS M. DAVIS OF VIRGINIA. Mr. Oliver.

Mr. OLIVER. I don't think that's the problem right now. I think the problem is the legislation, as interpreted by the lawyers, is the problem that Steve said. In other words, right now let's say that you have a contract that the government's paying $40 million to do right now, and some guys come in—and this is an actual example—and say, "I can do this for $12 million in 4 years." I'm going to have to put up $50 million to make this work, but I'm going to make my money back in 3 years, and I'd like to do this.

Now the problem is, since it's an annual appropriation, when they put their money up, after 3 years they're actually doing this for, say, $23 million. You know, they're on the slope down to 12. Now the problem is, Does the contracting officer continue to pay them $40 million to do $23 million of work? And what's that termination liability that you had to put up front? In other words, they're going to put up $50 million. You have to put up $50 plus the $40 you've already spent. You're spending $40 that year; you've got to put up $50 more. You have to spend $90 million right up front in order to get this.

So the problem is with our laws working against each other, and I had to work this one out, and I worked this one out very difficultly. It was not that the contracting officers were unwilling to do something new. It was that the law is not crafted well enough to get past—to meet our lawyers and the other laws and to be effective.

Mr. KELMAN. Congressman Turner, there's another difference between the public and private sector, which is that, of course, in the private sector, if you generate savings, they go straight to your bottom line, or whatever; they stay within the organization.

There's a widespread and not unjustified fear on the part of Federal Government folks that, if I generate savings in year 1, the very next year, if OMB doesn't take them all away from me, the appropriators will. I don't think you can deal with that by legislation, but I do think we need to be more creative in terms of essentially agreements, informal agreements, between appropriators, OMB, and the agencies that, if they're able to generate savings, let them keep at least a portion of those in the outyears, so there's not in effect 100 percent taxation of the savings that they generate.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK. Interesting. It's more complicated than it sounds, but we can get at it a little bit.

OK, let me ask Mr. Cooper a couple of questions. In your testimony you indicate, in particular, agencies are not clearly defining their requirements, fully considering alternative solutions, perform-

ing vigorous price analysis, and adequately overseeing contractor performance. In your view, how can agencies do a better job of achieving these goals? Beyond aggressive oversight, do you think there's a need for additional legislation?

Mr. COOPER. OK. The kind of things that you talked about are fundamental, good contracting things. Seeking competition——

Mr. THOMAS M. DAVIS OF VIRGINIA. Best practices, basically?

Mr. COOPER. Yes. Evaluating prices, monitoring contractor performance. What we're seeing in that is a multiple number of causes. Let me give you an example.

We did a review of service purchases using the GSA Federal Supply Schedule. What we found in that situation is very little competition being employed by the contracting people and really a misunderstanding on the part of the contracting people on how to use the schedule. Part of that stemmed from some special operating procedures that basically said, you can't use the schedule to buy services like you do brand-name products. You just can't go on the schedule, look at a couple of prices, and know they're good prices.

Mr. THOMAS M. DAVIS OF VIRGINIA. But that's what they're doing, basically?

Mr. COOPER. That's what they were doing.

Mr. THOMAS M. DAVIS OF VIRGINIA. And they're comparing it in terms of trying to get some comparison in competition with just schedule prices.

Mr. COOPER. Well, it's even worse than that. What we found was that the program office who's putting the requirement on the contracting community would get an estimate from its incumbent contractor about a level of effort in terms of number of labor hours and mix of labor, and things like that, and then turn around and say that was the basis for evaluating any prices. Well, normally, only one price came in, and the price was exactly the same——

Mr. THOMAS M. DAVIS OF VIRGINIA. Sure.

Mr. COOPER [continuing]. As the statement of work. So they just weren't taking advantage of the benefits of competition.

Mr. THOMAS M. DAVIS OF VIRGINIA. Well, they're comfortable with the contract, isn't that it? They're comfortable with the contractor. They know this guy can produce. So what the heck?

Mr. COOPER. Absolutely. What we recommended in that effort is that the special operating procedures that really talked about the difference between services and products be put in the regulations, and that is happening. So that should help.

But, just to give you an example—and, again, this goes back to education and training of the work force—one of my colleagues just attended a conference a week or so ago, had about 300 contracting officers at the conference. He asked the contracting officers to show a show of hands on how many people were aware of, and actually used, those procedures. There was only a handful of hands that came up in that conference. That's pretty discouraging.

As far as legislation on that issue, hopefully, if these rules and regulations get into the FAR and adequate training is done, hopefully, this problem will be mitigated in the future.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK. One of the big problems, it looks like to me, continues to be not just training people in place, but attracting them, retaining good people, because not just any-

body can do this work. Some of the stuff anybody can do with appropriate education and training, but some of this stuff is pretty sophisticated. I mean, what kind of changes are we going to have to make in personnel to get good people to come in and stay in the business for a little bit and continue to train them and keep them in the business as opposed to walking across the street where they can double or triple their salary?

Dr. Kelman, you had an innovative idea about bringing people in for short periods of time and moving them in and out. Can you give me some help on that? I mean, what's the best way over the long term? I don't know if we can pay people enough, given where we are with the Federal pay schedule.

Mr. KELMAN. It's interesting, Mr. Chairman, many of my students—not all of them, but many of them—if you sort of say to them, "I'm going to start a job at age 23 in some organization, work in that organization for 40 years and then retire," whatever, they look at you as if you come from another planet. A lot of the kids today, that's not their view of how they see their careers. They see themselves working in a lot of different organizations.

Mr. THOMAS M. DAVIS OF VIRGINIA. But that's Planet Government today. I mean, that's kind of the way it works.

Mr. KELMAN. Well, I think what we need to do is find ways to leverage that because I think there are a lot of young people who would like to spend some time in public service but aren't able or willing to do a whole career in public service. Right now, generally, people come into public service either at the entry level or at the political level with very little in between. I think we need to do a lot of things to make it more possible to allow people at, let's say, age 28, 29, 30 to come into government and do public service for 3 years at a mid-management level, a GS–13/14 kind of level, without the expectation that they're going to spend their whole career in the public sector. I think we need that.

Actually, I also believe that would have—if we can do that, in addition to getting smart kids or young people, it would have an additional positive function of exposing a larger number of Americans to public service and to government, and do something about the stereotypes that people have about folks who work in the Federal Government. So I think we need to be very aggressive in thinking about ways to rethink our whole career model to make a larger aspect of it, people coming in at mid-levels for a few years, doing public service without an expectation that they're going to necessarily stay for a career. We'll also have some people stay for a career, but I think right now we have almost nobody like that. We need to start having some more like that.

Mr. THOMAS M. DAVIS OF VIRGINIA. Go ahead, please.

Mr. OLIVER. Demonstrating the power of Mr. Kelman's ideas, the Department of Defense has a legislative proposal in. We did it targeted for 11 and 12 and asked for the authority to do a pilot project. So we would appreciate your assistance in this because we think it's a good idea and want to try it.

Mr. DRABKIN. More importantly, Mr. Chairman, I would point out that there is no plan for the career folks in the 1102 and the acquisition work force career series generally. We've just hired people and we bring them in. There's no career path. There's been no

planning for what to do with them in the mid-level of their career. There's been no planning what to do to retain them as they get to the twilights of their Federal careers.

What we really need, at least on the civilian side of the house, is a focus on doing the kind of planning you would do if you were in a private business and wanted to make sure you had a stream of well-qualified employees that handle the largest part of your business. Private industry would tell you today that contracting equals a minimum of 65 percent and in many cases 85 percent of their dollars. That's a big chunk of money, and we ought to spend some time developing career paths for the people who spend it for you.

Mr. MUTEK. Mr. Chairman? Two observations from industry: First, there are certain dynamics that we see in the acquisition work force today. With the human capital crisis and the aging of the acquisition work force, there may be greater opportunity for upward mobility within the government in the very near future, and that puts a premium on effective training.

The second observation is specific to the services industry. The services sector of government acquisition has been, by and large, a backwater for a long time. The most prestigious jobs are generally in the big systems, the high-visibility jobs, and as a result, we're seeing some of the issues today with the acquisition of services. As we see the consolidation of service requirements, the bundling, the A–76's, we're seeing some flawed procurements that not only reflect lack of training, but also the attention to the service acquisition work force.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK. I know Mr. Ose had a couple of questions as well. I am going to get him, but I want to keep it going. Mr. Turner, why don't I go to you? Oh, I'm just waiting for him to come in. I will ask one more question while we're waiting for him to come out.

I will go back to Mr. Cooper. In a number of statements reviewed by the subcommittee for this hearing, there has been an indication that much of the problem with acquisition reform is due to the lack of implementation in the changes seen in the early to mid-nineties. I mean, there was a huge cultural change in many cases. In GAO's view, has lack of implementation been a deterrent in achieving the comprehensive acquisition reform? Has the GAO reviewed what portion of the agencies' budgets are spent on work force training? And have you reviewed the effectiveness of agencies' training programs?

Mr. COOPER. OK. Let me make one thing very clear. GAO has been very supportive of acquisition reform, the Federal Acquisition Streamlining Act, the Clinger-Cohen Act. I think you're exactly right, Mr. Chairman, the implementation has not gone as smoothly as everyone had hoped and we have not always gotten the benefits from the reforms.

Having said that, we've heard a lot of other things said today about where successes have occurred. The purchase card is a good example. We can buy things a lot quicker. It costs a lot less to do all those. All those are positive things.

As far as looking at the training budgets of agencies, only where we have looked at that in any detail involves a report we did about

a year ago on GSA and the VA. Those are the two largest civilian purchasing organizations. We were looking at whether those agencies were complying with some of the provisions in Clinger-Cohen. We did find problems there. They weren't always identifying the training that was in their budgeting documents for the work force. There were incomplete records on whether the contracting personnel actually got the training and whether they got the required levels of training.

We are starting to do some broader work now, looking at work force issues, and we'll be exploring issues like training, recruiting, retention, all those issues across the Federal Government. So a lot remains to be done.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much. I have some followup to that, but let me recognize Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman. My questions are primarily directed at Messrs. Cooper, Oliver, and Drabkin. We had a discussion in the last Congress about contracting officers being given the responsibility of determining whether or not bidders or potential contractors are eligible under what became known as black listing regs or standards. I have seen the questions that the committee proposed to you. Amongst all your other responsibilities, training, evaluation, keeping current on new procurement practices, and what have you, I am curious as to your respective opinions regarding the proposed black listing standards that came forward in the last Congress.

Mr. OLIVER. I thought it was a terrible idea. There's two problems with it. One is there are no agencies that maintain the kind of records you're supposed to check against to see whether or not a various contractor had done something. And, second, the burden that you're adding to the contracting officer, who is a GS–9, who is trying to award a contract and is asked to evaluate purported behavior and compare it to, one, a standard—to be honest with you, the behavior in each of the industries is different, and if one spends time in it, one acquires that there's a difference between the garment industry and the transportation industry, and there are various standards for each. To expect the contracting officer, who is 27 years old and training to do a many other tasks that are terribly important, so that we do not have any waste in the government, to also deal with items for which there are no records and no agency that maintains an evaluation, I thought was extraordinarily difficult. I am very happy that rule has been held in abeyance.

Mr. DRABKIN. Mr. Ose, I would take it from a different approach. We have already existent in the FAR and in statute any number of ways to deal with contractors who violate the law. There are debarment proceedings. And if you take a look at the debarment list, it's a relatively long list; people are added regularly because they violate the law or deal inappropriately with the government.

Almost every agency mentioned in the proposed regulation—well, in the regulation that was implemented on January 19, almost every agency who's responsible for oversight of the laws, specifically mentioned the IRS, the EEOC, the Labor Department, have their own independent authority to debar contractors who violate

the substantive laws they're responsible for administering. That process exists.

If a contractor fails to perform and is terminated for default on a contract, they're automatically ineligible for the follow-on award. They get past performance evaluations now which address their ability in terms of current performance and which follow them in future performance. There are so many current ways of dealing with people who either violate the law or perform poorly that this additional task, which involved an additional certification, an additional possibility that a contractor would be subject to Civil False Claims Act litigation and possibly even criminal violations under title 18 for making a false statement, was simply unnecessary. To add that to the list of things that a contractor has to give us, it wasn't going to get us any additional benefit.

Mr. OSE. Mr. Cooper.

Mr. COOPER. I would agree with the two other government witnesses. There are adequate regulations in place now to deal with bad contractors, and I think that's adequate.

Mr. OSE. I just want to make sure, one of the things which always seems to be a divergence of opinion when you get a different panel in here, and I want to make sure for the record—Mr. Cooper, you're the Director of Acquisition and Sourcing Management for——

Mr. COOPER. Yes.

Mr. OSE [continuing]. The entire Federal Government?

Mr. COOPER. Yes, that's correct.

Mr. OSE. OK, over at GAO.

Mr. COOPER. Right.

Mr. OSE. And, Mr. Oliver, you're the Deputy Under Secretary of Defense for Acquisition and Technology at DOD. So you do all of that for the DOD?

And, Mr. Drabkin, you're over at GSA in the Office of Government-wide Policy.

Are there others similar in stature in the Federal Government that would have differing views that you're aware that we might need to visit with?

Mr. DRABKIN. I can tell you, based upon the result of what happened when we issued our deviation, that nearly every senior procurement executive in the civil side of government issued a deviation immediately after January 19, which I think speaks for how they felt about that particular rule.

Mr. OSE. Thank you, Mr. Chairman.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you very much. Mr. Turner.

Mr. TURNER. I have no further questions.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK, good. Mr. Turner has no further questions. I've got a few.

Let me go back to GAO for a minute. Well, let me just ask, did you review the effectiveness of the agencies' training programs?

Mr. COOPER. Not at DOD. Only in GSA and the VA. And there we were looking more at the level of spending and whether the Clinger-Cohen continuing education——

Mr. THOMAS M. DAVIS OF VIRGINIA. And it's just a small sliver they're spending on training at this time?

Mr. COOPER. Right.

Mr. THOMAS M. DAVIS OF VIRGINIA. Which is understandable. I mean, I do know how agencies work. But, clearly, there is a cost to that. I think that is what everybody is saying.

Mr. COOPER. Absolutely.

Mr. THOMAS M. DAVIS OF VIRGINIA. DOD's testimony indicates that they are leading the way in the performance-based contracting, including having met the administration's goal for 20 percent performance-based contracting already. Have you reviewed DOD's efforts in that area?

Mr. COOPER. No, we have not yet. That's a very recent phenomena, and I would applaud the DOD for moving out aggressively in this area. I would issue a caution though. Measuring performance-based contracting by just the number of contract actions is not necessarily the best measure. I think what we're really after here is whether those performance-based contracts produce the outcome that everybody wants.

Mr. THOMAS M. DAVIS OF VIRGINIA. Of course.

Mr. COOPER. And that's what's important.

Mr. THOMAS M. DAVIS OF VIRGINIA. Of course. Well, we might ask you to look at that downstream. But at least they are being proactive and they are championing this.

Mr. COOPER. Right. And with the new guide coming out in December, they're all positive steps and they're moving in the right direction.

Mr. THOMAS M. DAVIS OF VIRGINIA. Well, let me go to DOD. In your view, has the acquisition work force received sufficient training in the legislative changes made in the early nineties? And what do you do to measure the success of your training efforts?

Mr. OLIVER. The measure of success will be how well we can put in performance-based contracting, which is very difficult, and also by what we see as results. I can't do that right now.

Mr. THOMAS M. DAVIS OF VIRGINIA. I understand.

Mr. OLIVER. We're really working very hard on improving the training. I mean, we have the hours. Candidly, I've got the hours required, and I think it's the right number because it's a number that everybody in the industry uses, and we have meetings and everybody argues for fewer, which indicates to me that I've got it about right.

My problem right now is the quality of them, and I'm not getting the business school—I've been to a couple of business schools, and I'm not getting the business school quality that I want. Now this is related to the questions you were talking about upgrading the force, where we put in requirements for essentially a college education, and we're bringing in different people and requiring them either to come in with a degree or gain a degree, because this business is getting much more difficult.

At the same time, we have to make the training better. It's got to be not only Web-based, it's got to be really substantive. I was talking to the president of the Defense Acquisition University and his staff last week, and I said, "You know, I want this to be the hardest school that anyone has ever attended. I want it to be so difficult—I want it to be so dense that it's rewarding. I want the

people to feel like they're learning every second." And we're not there yet, and we've got to get there.

Mr. THOMAS M. DAVIS OF VIRGINIA. It seems to me, if you get there, then some of what Dr. Kelman talked about, bringing people in from industry for a short period of time and training them, they can go back out smarter than they ever were and get experience they never could get otherwise. I think it makes their stay in government worthwhile——

Mr. OLIVER. No, I agree. In fact, that's the reason we're asking you for this. We're asking you for this pilot. We've also asked for another pilot to send people out to industry and come back. I mean the same sort of thing.

I go down and talk to the people. We bring in the Defense Acquisition University, we bring in many people from industry. I go down and talk to each class that graduates, and then I hang around and I smoke outside and wait for someone who smokes to come out who's from industry, and then I talk about what they thought of it.

Mr. THOMAS M. DAVIS OF VIRGINIA. You're only getting the smokers' views? [Laughter.]

Mr. OLIVER. But they're a higher quality group. [Laughter.]

Mr. THOMAS M. DAVIS OF VIRGINIA. Well, being from Virginia, I'm not going to argue with you. [Laughter.]

Mr. OLIVER. And so what we're trying to do is to reflect that and upgrade the course so that we're getting those right kind of people.

There's a lot of effort going into this, but I won't see the results for a while.

Mr. COOPER. I'd like to again congratulate DOD because they really are taking education of the work force very seriously. We have done a substantial investment of resources in best practices for major weapons programs, for example, and our reports are being used now by the Defense Acquisition University to share that knowledge and expand the understanding of some of those best practices in the government work force.

Mr. THOMAS M. DAVIS OF VIRGINIA. All right. Let me ask a question. I am going to start with Mr. Drabkin, and then I will be happy to hear from any of the rest of you—at least from Dr. Kelman and Mr. Mutek and Mr. Wagner.

Would it be difficult for GSA to open their IT products, just IT products and services, schedules to State and local governments? Have you been asked to revisit cooperative purchasing for State and local governments?

Mr. DRABKIN. The answer to your first question is no, if you change the legislation. What objections the IT industry may have, I don't know. As you know, we got cooperative purchasing authority back, I believe, when FASA——

Mr. THOMAS M. DAVIS OF VIRGINIA. Correct.

Mr. DRABKIN. And shortly after we got it, a number of industry groups were concerned about the impact providing access to State and local governments would have on their markets, and they convinced Congress to withdraw that authority.

I'd like to suggest that we need more than cooperative purchasing with the States and local governments, though. I think this is an opportunity, as we build the electronic marketplace of the fu-

ture, for us to share with them the building of that marketplace. There certainly is no sense in creating a Federal Government marketplace and a State and local government marketplace in the e-marketplace.

I think there's an opportunity for us to share training. Mr. Oliver referred to what DAU is doing. Last summer FAI began working with DAU to leverage what the two institutions are doing across the entire enterprise of government. And, certainly, we could share that same information and gain from the information State and local governments have developed and share that across the whole enterprise of government, from the local level all the way to the Federal level.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK.

Mr. DRABKIN. So cooperative work with the State ought to include more than just purchasing. But if you change the statute, we'll make it happen, sir.

Mr. THOMAS M. DAVIS OF VIRGINIA. All right, that's good. I'm going to ask, Dr. Kelman, you were imminently involved with this.

Mr. KELMAN. Yes. Cooperative purchasing was a good idea when it was first passed, and it's a good idea today. It is a fully voluntary program that simply opens up to State and local governments the option, if GSA prices are better or the warranty is better, or if they find it a more advantageous way to buy products than whatever other contract vehicles they have available, it says you may do this. No requirement, no regulation.

Mr. THOMAS M. DAVIS OF VIRGINIA. Let me ask you, there were two objections, one of them from the middle guys who were selling on commission to State and local governments, and they get cut out of it. They got organized and everything. But by doing it to IT services, you eliminate that argument.

Second, not services again, but there are products that are sold at discounts to the Federal Government that different manufacturers don't want to sell at discounts to State and local governments because they can continue to gauge them, and I understand that. We're realists. But you really don't get that on the services level.

It seems to me, if we can satisfy that—I've already had some meetings with some of the groups that opposed it—and just say, look, we just want to do this for services contracts, it makes a lot of sense here, and we're working on that.

Mr. KELMAN. Interesting. That might be a good way to go, given some of the objections last time. I do think that, to some extent, this really comes to what I see as the basic tradition of this committee. I mean, this committee has traditionally served as a taxpayer guardian, and there are a lot of special interests in this town, a lot of special interests out there. I just think it is in the best traditions of what this committee stands for as a taxpayer guardian, in this case a guardian of State and local taxpayers, but they're the same folks; they're the same citizens—to provide as many options as they can for getting a good deal.

Mr. THOMAS M. DAVIS OF VIRGINIA. And, also, State and local governments many times are not as sophisticated in their procurement rules and regulations. This just makes it a lot easier for them to get something cheaper, faster, and everything else.

Mr. Mutek and Mr. Wagner, care to comment?

Mr. WAGNER. Sure. Mr. Chairman, this is very similar to the collaborative purchasing concepts that are being seen in industry right now. We've shown a great interest in this. We have been collaborating with even our competitors to achieve economies of scales, and eventually the government reaps the benefits.

A difference, of course, is that we're generally looking in collaborative purchasing with commodities, and services is different. You could look at a range of services that are almost commodity-like, but there is the issue of best value and tailoring the service for your needs that needs to be considered.

The objections that have been raised usually come out from smaller businesses, some of the same type of objections that Dr. Kelman talked about during his discussion on bundling. Those objections are real and need to be considered, impact on smaller businesses.

Mr. THOMAS M. DAVIS OF VIRGINIA. But smaller businesses can get on the schedule and it can allow them to grow.

Mr. WAGNER. Yes.

Mr. THOMAS M. DAVIS OF VIRGINIA. I mean, the point here is that this allows you to kind of get on television to the people that you are selling to. Otherwise, State governments are already putting up their own schedules, and it's very inefficient, it seems to me.

Mr. Wagner.

Mr. WAGNER. There are some other areas, too, beyond, I think, even IT. Dr. Kelman spoke before about energy-saving performance contracting, and there are a number of energy service companies out there that have been approached by State agencies saying, "Can we use those Federal contracts because you've done them; you know how to do them." They're fairly complicated, and they want to take advantage of that.

So I might just say that, if we look toward that, we may not want to just limit it to the IT schedules and all their other avenues that I think benefits to the Federal procurement base that might be advantageous for States to use as well.

Mr. KELMAN. This might be an opportune time, because of the energy situation, to take advantage of that opportunity to help the States and localities out by giving them access to those forms of contracts.

Mr. THOMAS M. DAVIS OF VIRGINIA. We tried to do that with Y2K compliance problems, and we got stiffed by the drug companies. But I hear you. This is an opportune time at least to put it forward and give Members an opportunity to vote it up or down.

Mr. DRABKIN. One other point, Mr. Chairman, is that I get a call at least once a day from someone in a State or local government asking to get access to our schedule. So I'm sure you'll find support in the State delegations if they turn to their constituents.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK. Let me ask—Mr. Ose, do you want to ask another question or two?

Mr. OSE. Yes.

Mr. THOMAS M. DAVIS OF VIRGINIA. Then I still have a few more and then I will get us out of here at a reasonable time.

Mr. OSE. I want to go back to this question on the black listing issue. I just want to make sure I've got a clear understanding of Mr. Cooper, Mr. Oliver, and Mr. Drabkin's credentials.

One issue that might come up here, and I'm anticipating, given your unanimous opposition to the rule that came out January 19—Mr. Cooper, you're not a political appointee? You're permanent Federal Government?

Mr. COOPER. Career service.

Mr. OSE. Mr. Oliver, same with you? You're a political appointee?

Mr. THOMAS M. DAVIS OF VIRGINIA. Are you saying they can't get fired if they give the right answer or wrong answer on this? [Laughter.]

Mr. OSE. I don't know. They can get fired for whatever they want.

Mr. Drabkin, are you——

Mr. OLIVER. I'm a political appointee.

Mr. OSE. You are or you are not?

Mr. OLIVER. I'm a political appointee.

Mr. OSE. You are? OK. Now when did you come to the Federal Government?

Mr. OLIVER. Three years ago, sir.

Mr. OSE. So you didn't come with this administration, the current administration?

Mr. OLIVER. That's correct.

Mr. OSE. OK. Mr. Drabkin, are you a political appointee?

Mr. DRABKIN. No, sir, I'm a career employee.

Mr. OSE. Now you are also on the FAR Council, are you not?

Mr. DRABKIN. I am one of the three FAR signatories.

Mr. OSE. OK, and the three signatories to the FAR Council, what is the role that they play?

Mr. DRABKIN. Title 41 establishes a scheme for the development of acquisition policy across the Federal Government. It created the FAR Council, chaired by the Administrator of OFPP, and then on the Council are the representatives of the Secretary of Defense, the Administrator of NASA, and the Administrator of GSA.

They're responsible in the first instance for generating procurement policy for the entire Federal Government. Of course, there's a role that OFPP plays both in chairing the Council and initiating the President's agenda on procurement policy.

Mr. OSE. OK. The reason I bring this up, Mr. Chairman, is a week from now or a month from now, or whatever, I just didn't want to hear that the testimony we had received today had been orchestrated, if you will.

Mr. DRABKIN. Mr. Ose, I would also point out that we're in a period of time right now where we are accepting comments on the proposals to change the rule. We plan to hold a public meeting——

Mr. OSE. I understand.

Mr. DRABKIN [continuing]. Later next month. In terms of my position, my position will be swayed by the weight of the comments and what the right thing to do is. I'm not saying at this moment that I've made up my mind in terms of what to do with the rule. Obviously, I need to wait and hear the comments, and, plus, we await political leadership from the White House when the Administrator of OFPP is confirmed.

Mr. OSE. OK, we will proceed with that caveat. I just want to be clear that I have felt that the proposal that did come forward from Ms. Lee's organization as inappropriate from its outset, and I am pleased to hear the breadth of concern that was expressed here today.

Mr. DRABKIN. I think it would be unfair to characterize that proposal as coming from Ms. Lee.

Mr. OSE. I stand corrected.

Mr. OLIVER. Particularly since I've now hired her at the Department of Defense. [Laughter.]

Mr. OSE. Mr. Drabkin, your point is well made.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you. Let me ask, Dr. Kelman, turning to you for just a few questions. Let me start by saying we not only have a problem with procurement officials not getting the right training and attracting and retaining them, but even when it comes to performing duties within government. So much outsource is going out today because we don't have in-house capability to do that. Is that fair?

Mr. KELMAN. Yes. I think most of the outsourcing that takes place I think takes place because it's more appropriate to be outsourced. I mean, for the vast majority I don't think is an issue of, you know, lack of skills, or skills, whatever, in the government, but just these are the kinds that are most appropriately performed by the private sector.

Sometimes I think, particularly in some of the IT areas where it's very difficult for the government to get especially entry-level talent, programmers, people who do a lot of stuff, that's another reason to outsource.

Mr. THOMAS M. DAVIS OF VIRGINIA. I just wonder long term, I mean, I don't know—that's another problem for government in terms of having the resources to hire and retain people. Because, if nothing else, having a governmental component that can perform these services keeps the private sector honest, doesn't it? You can always bring it in-house if you can't perform inside.

Mr. KELMAN. I think as long as we have a very competitive—in the IT area, you know from northern Virginia, it's a hypercompetitive industry. There's no shortage of world-class suppliers trying to deal with the government. In fact, one of the positive results of procurement reform is that, because we've made the government be more commercial and lowered the barriers to entry, more new high-tech firms are entering the government marketplace more quickly than they did before.

So I guess the worry I would have, or the issue I would raise, is not so much that we need to keep a bunch of programmers in-house and data base managers, and stuff like that, to keep the private sector honest, because the private sector competitors will keep the private sector honest. I do think that we need to be concerned about it, and I have a few thoughts in that area, about how do you monitor a contractor who is doing programmer or data base management, or whatever, if you have no programming or data base expertise in-house. That's a tougher one.

Mr. THOMAS M. DAVIS OF VIRGINIA. Yes, that's a whole other—that's where you get your losses financially because you can't monitor.

Let me go to Mr. Wagner and then back to Mr. Oliver.

Mr. WAGNER. I might add that nothing keeps us working harder and trying to please the customer than knowing that 2 years from now our competitors are nipping at our heels and would love to take whatever contract we have away from us. It is an extremely competitive environment out there in the private sector, and I think that's what drives innovation and cost savings in the long run, is knowing that we've got to do a better job the next time we bid this contract because there is vigorous competition out there.

Mr. THOMAS M. DAVIS OF VIRGINIA. I view this committee's role as not being pro-contractor or anti-contractor or pro any type of thing, but, basically, just making sure the taxpayers get the best value for their dollar. Competition is the best way to do that. I think we can agree on that. We try to write rules that make sure we are getting as many efficiencies as we can. Sometimes that may mean moving things in-house; sometimes it means outsourcing them, but most of all it means having a procurement system that works, so you can drive down and bring competition to cost.

From some of the testimony today, we are finding out we are not always using what is available to us in terms of soliciting other bids and the like.

Mr. OLIVER. Mr. Chairman, I'm a contemporary of Willie Mays, but I'm not sure that my baseball skills kept him on the edge throughout his career. I'm similarly not sure that keeping the IT capability inside Defense, for example, keeps the industry on edge and moving on.

I think this is really a key component because me having a specialist in Ada who has worked for the government for 40 years does not help me evaluate, does not help anybody evaluate a C++ solution that a couple of contractors are bringing forward. In fact, I have watched this happen because I was in industry before, and I watched this happen. What truly happened was, if you had a government person on the evaluation team, then you went to him, you looked at him and looked at his background and said, "What is it he's comfortable with?" He's comfortable with Ada. Then let's bid this in Ada. Even though it cost the government 30 percent more, we're both going to do it so we can get his vote, so he doesn't say there's so much risk in the software. We are going to bid a non-state-of-the-art proposal because we want to have the bid. This is really an important area. This is really key.

Mr. THOMAS M. DAVIS OF VIRGINIA. But that goes back to the lack of in-depth experience in government, doesn't it?

Mr. OLIVER. No, this is really hard. I think this goes back to that this is an area in which industry has just gone away like this. So the question is not so much how I'd better get people to do that, but how I can attach onto that.

For example, see, I would take Steve's point. What I'd like to do in this area is go out and take somebody who's 40, 45, 50 who's retired from the industry——

Mr. THOMAS M. DAVIS OF VIRGINIA. Now you're saying particularly in the IT sector?

Mr. OLIVER. IT is really funny. Yes, I'm saying this is really——

Mr. THOMAS M. DAVIS OF VIRGINIA. OK.

Mr. OLIVER [continuing]. An interesting area because it's gone up so much and the salary's gone up. For example, I've talked to most of the major industries and say to them, "I think you ought to outsource all that from Lockheed-Martin." I mean, in other words, break it off so that it's not subject to your payscales, same problem, whatever industry, and then bring back some guys who are 40 or 50 years old from industry and bring them back and they're your supervisors of this. I think IT is a particularly difficult one, and I just don't want to let go by that this is important to have a government, a strong government organization exist.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK, I think your point is well taken. I appreciate that because this has to do with other legislation we have pending, and I appreciate hearing from you.

Mr. KELMAN. There are two strategies for how you might go about doing the appropriate oversight or working with a contractor in a highly technical area like IT. First of all, the more you have performance-based work statement, you want to get away from micromanagement, telling the contractor how to do it, but you do need some expertise to evaluate proposals and some other things.

I agree with Dave; I think that rather than saying the traditional idea is we have a bunch of programmers, we have a bunch of data base managers, we have a bunch of working-level IT folks who then get promoted internally within the government to a situation where they then oversee contractors—let's get rid, by and large, of that working-level data base management, programmer group and, instead, hire people at a 13 or 14 level maybe for a few years who have already developed the expertise in industry. They may only stay for a few years. It may be part of a career trajectory, whatever. Get the expertise from there.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK, your point is well taken.

Mr. MUTEK. Mr. Chairman, one issue is the proper role of competition. All too frequently we hear that frequent competition keeps industry honest. In reality, particularly in the services, there's a real benefit in looking at longer-term contracts and forgoing frequent recompetitions to gain benefits. A lot of the service contracts we're talking about are similar to the outsourcing agreements that private industry does. We've learned that there are investments made by the company that's doing the outsourcing and it takes time to recoup the benefits. It leads to a more stable work force. It cuts the cost of frequent recompetition. It also develops a partner relationship, a closer relationship. This really allows performance-based acquisitions to provide great benefits to the company that engages in this and to the government, if it were to use this.

We haven't seen much in this area of partnering, although a lot of usefule tools have come about, award terms, various types of incentives. Longer-term contracts might be a good way to go. That would make us relook at the cost of frequent recompetitions.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK, thank you. Mr. Wagner, you made similar comments in your opening statement.

I will try to move through this quickly. Dr. Kelman, you are asking that OMB, in cooperation with GSA, work actively with agencies to seek out share-in-savings opportunities. Are there specific examples of the share-in-savings contracting approach that agencies might emulate?

Mr. KELMAN. Are you talking about types of contract areas?

Mr. THOMAS M. DAVIS OF VIRGINIA. Yes, yes.

Mr. KELMAN. One of the big ones—and Dave Oliver referred to it before—is logistics modernization in the Defense Department, where you have enormous savings in terms of number of parts you need to keep in stock, these enormous warehouses filled with stuff that gets on "60 Minutes" every once in a while, and the GAO folks go to investigate. If you had a state-of-the-art logistics system, you could take a lot of those extra parts, and so forth, out of the system, generating enormous savings. All the services, in my view, in DOD really should be pursuing share-in-savings as a way to bring their logistic systems from 1960's technology to turn-of-the-century technology.

The second big area is various kinds of business process re-engineering——

Mr. THOMAS M. DAVIS OF VIRGINIA. You might not have gotten the bids coming out of the private sector to do that kind of thing, 10 or 15 years ago. It was risky. We weren't sure where the science was going. But today I think there is a consensus that the private sector could respond to that.

Mr. KELMAN. Right. The interesting thing there, Mr. Chairman, is that logistics is a classic example of a commercial function that is a way that commercial firms like a Wal-Mart or, obviously, UPS or FedEx, it's essential to the way they compete. There's a lot of progress on that in the commercial marketplace that the government ought to be taking advantage of using commercial companies.

And the government is learning. Like to tell just a brief anecdote, I was at a thing where the Defense Logistics Agency was preparing for their business systems modernization contract, which they've since awarded, and it is a performance-based contract for major logistics modernization there. It was a meeting with various potential bidders, and they asked for people's names and phone numbers. They were very interested in getting the commercial side of these various firms' operations, not the government side. I'm convinced that they were very carefully looking at the area codes that all the people gave—no offense—to make sure there were no 703's, no 202's, and 301's. They wanted 650's and 415's and 312's, and so forth. They wanted the commercial side of these businesses. So I think there are real opportunities there, as in the broad area of business process re-engineering.

Mr. THOMAS M. DAVIS OF VIRGINIA. All right, thank you very much.

Mr. Mutek, let me ask a couple of questions for you. In your testimony you cite the need for better acquisition work force training. In your experience have the civilian agencies or DOD actively tried to coordinate with the private sector to ensure that training goals are consistent with the problems that you observe as a Federal contractor?

Mr. MUTEK. The PSC has cooperated with DOD, and we have an ongoing relationship with them. Also, we have begun discussions with GSA about training, coordinating training opportunities.

Mr. THOMAS M. DAVIS OF VIRGINIA. I would just say to both agencies, I think that's very important that we coordinate with private sector on these issues and that we are talking to each other

as you arrive at your—not necessarily let them dictate it, but you can learn a lot by talking to your customer on this. We can pass all the laws we want, but if we don't have the appropriate training going up the ladder, nothing else is going to work. We are seeing that going back to FASA.

You indicated that Congress has to make a determined effort to ensure that training resources are available and are a top priority among all agencies of government, particularly in the civilian agencies. Are any specific training opportunities available in the commercial marketplace that you would recommend for Federal employees?

Mr. MUTEK. The PSC would like to get back to you with a memo on that.

Mr. THOMAS M. DAVIS OF VIRGINIA. That would be great.

Mr. MUTEK. There are significant opportunities, and the bottom line is it is very easy to quickly eliminate that line item, save some money, and it's not being done.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK, and we'll let you get back and keep the record open on that.

Let me just move to Mr. Wagner. In your testimony you note that there are still many private sector companies that are unwilling to contract with the government. Do you have examples of specific companies or a specific example that made a decision not to work with the government and what regulations might have driven that decision?

Mr. WAGNER. I think generally——

Mr. THOMAS M. DAVIS OF VIRGINIA. We will allow you to supplement this if you would like to come back to it.

Mr. WAGNER. Sure. We would be happy to.

But I think generally a lot of it is the accounting requirements that are imposed by the Federal procurement regulations. Frankly, I think the profit margins as well are looked at. In some places they're very competitive and they're thin. Right now in that particular sector if the private sector is booming, where you put your investment capital, if you will, to bid jobs often goes to the private sector, if you've got to choose.

I think another thing that is very daunting in Federal procurement is the length of time the procurements are taking. Not only do they cost more to bid, they are taking longer to bid, and bid decisions are taking longer. What that does is it ties up our investment capital, if you will, because we're waiting for those decisions. Tell me if I've won or lost. Just let me get me on to the next bid. And we can't often do that because decisions are dragged out.

Mr. THOMAS M. DAVIS OF VIRGINIA. Well, that's important because the markups are not as big at the government level as you get in the commercial sector, by and large.

Mr. WAGNER. Right. So right now we have got a dozen contracts out there and we're waiting for bid. Once we find out, we can turn over and go bid some more, but it's difficult when your basically venture capital is tied up waiting out there for decisions.

Mr. THOMAS M. DAVIS OF VIRGINIA. So I think what you're saying is that longer contract periods in the commercial sector comes with commensurate financial benefits to the customer as well?

Mr. WAGNER. Yes, definitely. On the longer-term side, it allows us to make investments in equipment, vehicles, software, things that we wouldn't do on a 5-year. We have got one 10-year base operations support contract. Trust me, we can make investments there that we can't on 3 to 5-year-type contracts.

Mr. THOMAS M. DAVIS OF VIRGINIA. Even with people, too, I guess?

Mr. WAGNER. Pardon?

Mr. THOMAS M. DAVIS OF VIRGINIA. People as well as the——

Mr. WAGNER. Yes, and people as well.

The other thing it does is on share-in-savings, I think it's very important if you're going to do that. Because if I'm in the 3rd or 4th year on a contract, am I going to propose share-in-savings ideas, a value engineering-type thing, if it's not going to pan out. But if I've got a 10-year horizon out there, it may be very advantageous for me to suggest those type of ideas that can really pay off in the long run for both the customer and the contractor.

Mr. THOMAS M. DAVIS OF VIRGINIA. I think it is important, if we move to share-in-savings, that we make the first few work, be very successful, if we're going to lure the private sector in. I mean, starting out and losing patience after 3 years and going into some kind of cancellation would be awful in terms of the message it would send to the private sector bidders. Do you agree with that?

Mr. WAGNER. We've got some specific examples on a contract that I will submit to the committee.

Mr. THOMAS M. DAVIS OF VIRGINIA. The last question for you is, you stated that award term contracts is an innovative concept that guarantees the needs of the government while giving the contractor an incentive to achieve or exceed the agreed-upon performance. Could you try to provide us with some real-life examples that might be employed in the commercial world?

Mr. WAGNER. Certainly.

Mr. THOMAS M. DAVIS OF VIRGINIA. You don't have to do it today, but you could supplement it.

I also want to ask, in your testimony you noted the importance of medium-sized businesses in the Federal marketplace. It's an important question.

Mr. WAGNER. Yes.

Mr. THOMAS M. DAVIS OF VIRGINIA. I've noted with concern the shrinking marketplace for mid-size companies. We even had a mid-sized company we talked to where they got a solicitation from a large company saying, basically, you guys are toast; come with us, acknowledging this and giving them a buyout offer. Have you seen the same trend within CSA? Do you have any suggestions for highlighting the innovations that these unique mid-sized companies bring to the Federal marketplace?

Mr. WAGNER. Well, I think it's——

Mr. THOMAS M. DAVIS OF VIRGINIA. Recognizing your organization is large and——

Mr. WAGNER. Yes, we are a large business, and oftentimes with the small businesses, you know, the grass is always greener in terms of contracts. At times my colleagues that are in those mid-sized businesses are almost caught in between. They can't go after

the set-aside contracts, and sometimes they find it difficult to compete on some larger package contracts.

I do think that's something that we need to constantly be aware of. The thing is, as we structure certain contracts and put scopes of work together, what we find is that we team with a lot of contracts in a certain expertise in a certain area. So we're always looking out there for teammates and going after large contracts, because often we don't even do everything ourselves. So I do think it's a question of looking at that.

That might be something to do from an overall standpoint, too, from any agencies looking at their acquisitions overall, saying, "Do we have the right mix out there? Do we have a split?"

Last, I would like to add, the worst thing that can happen is, if a procurement is out there and it's coming, many of us watch opportunities out there for 2 years in advance and spend resources looking and preparing to go after that. Then if there's a change in the procurement—oftentimes they're set aside at the last minute or something changes—the rug feels like it gets pulled out from the company, either way, if it's not set aside or if it is. I think that's very detrimental to the process, too, like any other companies, we have to plan. Last-minute changes are very difficult to be able to do that for any company.

Mr. THOMAS M. DAVIS OF VIRGINIA. My last question, and it's kind of to everybody, and I'll start with you, Dr. Kelman. This has just gotten me for years. The thing I like about share-in-savings and performance-based contracts is you allow the companies to run it the way they want to run it. In so many government contracts you've got auditors over telling what's G&A and what's overhead. Sometimes what the government may feel are appropriate incentives, the private sector has long since moved beyond.

I'll just give an example. In one company I worked with we had a great Christmas party every year. We had the Beach Boys 1 year. I'll never forget the——

Mr. WAGNER. The Cowsills.

Mr. THOMAS M. DAVIS OF VIRGINIA. We never got the Cowsills. [Laughter.]

But we got a lot of the groups. We had the Shirelles. I can go through it. They had the Four Tops a couple of times. [Laughter.]

I will never forget the government auditor coming in, reviewing it, and saying, reminding me he had a cash bar at his Christmas party, and then it was reduced to $50. But, you know, that was a huge retention issue. Everybody knew that Adtech had the great Christmas party, and it was a huge recruiting vehicle for us. Now you make these employee award ceremonies and they try to jazz it up a little bit.

But why does the government, what incentivizes people? Why are they smarter than the people that are out there trying to hire people in the competitive marketplace?

It seems to me I think the FARs go overboard on this, in my opinion, but the nice thing about the share-in-savings and performance-based is, basically, don't they, wouldn't they allow these companies to spend their money the way they want to?

Mr. KELMAN. Right. And one of the features of a share-in-savings as a kind of contract is a form of firm-fixed-price contract, and

there's an established schedule of payment to contractor. Firm-fixed-price contracts do not involve auditors at all. Just that's the way firm-fixed-price contracts work in general.

Mr. THOMAS M. DAVIS OF VIRGINIA. There's a lot of money just not having to put up with all the auditing for the private sector.

Mr. WAGNER. Mr. Chairman, in our share-in-savings contracts we provide bonuses to the employees who come up with the ideas. So we share down the line with them, and that's a tremendous incentive for them to come up with ideas, the people who are out in the field doing the work, if you will. I might suggest that maybe we think about that on the government side, too, here. Award people to come up with savings ideas. It happens in the private sector.

Mr. THOMAS M. DAVIS OF VIRGINIA. Absolutely. We did that in Fairfax when I was there, and we got some of our best ideas downstream a little bit and saved actually a lot of money with that, that people might not have come forward with otherwise.

Anybody want to add anything? Yes?

Mr. DRABKIN. Mr. Chairman, part of the problem is we're changing from a culture where, as a result of ill wind in the mid-eighties, we were concerned about every expenditure a contractor made and we were concerned with telling them how to do their work and tying expenditures to work. As we move to performance-based contracting and fixed-price-type arrangements, what we ought to be focusing on is the outcome and how we measure it to make sure we're getting what we paid for. So what they spend their money on is up to them. Their challenge is to be price competitive, along with value, with the other people in the marketplace. If they want to spend their money on parties, then that's OK as long as they make it up someplace else, so that the best value comes to the government.

Mr. THOMAS M. DAVIS OF VIRGINIA. OK, thank you. Mr. Oliver and then Mr. Cooper.

Mr. OLIVER. Yes, sir. I would really encourage you to—I think all of us believe share-in-savings is the right way to go. It's not properly constructed legally right now. It doesn't work in the Department of Defense, and I would encourage your staff to talk to OMB and the Office of Federal Procurement Policy and my staff. We'll all be happy to help. We've been trying this really hard, and I'd like to help you point out things that we think are causing us problems.

Mr. THOMAS M. DAVIS OF VIRGINIA. Well, we would like to work with all of you on this, on something that really works. I know Mr. Turner is interested in doing this as well, and come up with something between us that we can move rather quickly. So we appreciate your comments today, but we'll, I think, flag some of this language by you to see what works as well, through your organizations. We very much appreciate your being here.

Mr. Cooper, do you want to add anything, have the last word here?

Mr. COOPER. Well, as the only auditor at the table, I feel compelled to at least comment on your observation. Clearly, if the government can get its needs met through commercial products and services, the kinds of things that you're talking about, Christmas parties and other things, don't become issues. But there remains a

significant part of procurement on a sole-source basis. In that situation, the taxpayers' interests have to be protected.

I've spent 17 years looking at contracting, and I've seen all kinds of abuses. I even testified on a beer can collectors' club at McDonnell Douglas one time.

But, anyway, I think Mr. Drabkin made a very astute observation, and that is, we are going through a transformation and we are going to rely more on commercial products and services. The extent that we do that, then we don't have to worry about the auditors coming in and looking at Christmas parties and other kinds of things.

Mr. THOMAS M. DAVIS OF VIRGINIA. Thank you all very much. I appreciate it. I think this is very helpful to us. We expect some legislation to come out of this, and we hope to continue dialog with the different organizations.

Before we close, I just want to take a moment, again, to thank everybody for attending this important oversight hearing. I want to thank the witnesses. I want to thank Representative Turner and other members for participating. I also want to thank my staff for organizing it. I think it has been very productive.

I will enter into the record the briefing memo distributed to subcommittee members.

We will hold the record open for 2 weeks for anything you would like to supplement and for those who may want to forward submissions for possible inclusion. Anybody who was excluded today from the hearing who would like to forward anything, we would be happy to have that in the record as well.

These proceedings are closed.

[Whereupon, at 12 noon, the subcommittee was adjourned, to reconvene at the call of the Chair.]

[The prepared statement of Hon. Jim Turner and additional information submitted for the hearing record follow:]

Statement of The Honorable Jim Turner
"The next steps in Services Acquisition Reform: Learning from the past, Preparing for the future"
Subcommittee on Technology and Procurement
May 22, 2001

Thank you, Mr. Chairman. The federal government is the largest purchaser of goods and services in the world. For example, in just this past fiscal year 2000 alone, the United States government contracted for $204 billion in order to meet our acquisition needs. Unfortunately, federal procurement is an area which historically has been prone to waste, fraud, and abuse. Therefore, as I've said before in this Subcommittee, the difference between our doing it right and our doing it wrong, is literally billions of taxpayer dollars. With this in mind, it is of the utmost importance that we ensure that the federal procurement system is as efficient and credible as possible, and I commend the Chairman for his focus here this morning.

Federal contracting has seen extraordinary changes in the past decade. The end of the Cold War greatly reduced our spending needs and changed our outlook on procurement policy. In the early 1990s, in an effort to adjust to the new marketplace, Congress and the executive branch began a comprehensive statutory and regulatory overhaul of the federal acquisition system. The result has been a shift in federal spending patterns, a decline in the federal workforce, a simplification of acquisition rules, and the introduction of new contracting vehicles and techniques.

Despite the progress we have made to date, there are still concerns that acquisition reform is being delayed. This delay is due to problems that are long-standing, as well as others that are relatively recent. In particular, the concerns regarding human capital challenges, the rapid growth of service and IT contracting, poor oversight of contractor performance, and the inability of the federal government to adopt innovative contracting vehicles have given us good reasons to have this hearing today.

Again, I commend the Chairman for his focus on this issue and welcome the witnesses here this morning. The hearing will investigate what needs to be done so that agencies and their managers have the tools necessary to achieve true reform. While we have had some successes, many challenges still need to be overcome to ensure that the taxpayers are getting the best value for their procurement dollar.

ACQUISITION REFORM WORKING GROUP

Aerospace Industries Association * ACIL * American Consulting Engineers Council * AeA * American Shipbuilding Association * Contract Services Association of America * Electronic Industries Alliance * National Defense Industrial Association * Professional Services Council * U.S. Chamber of Commerce

Statement on *Acquisition Reform Initiatives*

Submitted for the hearing record of the House Government Reform Subcommittee on Technology and Procurement Policy

May 22, 2001

The multi-association Acquisition Reform Working Group (ARWG) appreciates this opportunity to submit a statement for the hearing record on *Acquisition Reform Initiatives* before the House Government Reform Subcommittee on Technology and Procurement Policy.

Together, ARWG represents tens of thousands of companies and individuals, encompassing virtually every element of the Government contracting community – including large and small businesses, manufacturers and service companies. Many of the companies represented in ARWG do business with the Department of Defense only, many with civilian agencies only and many with both. We also have members of all sizes who have refused to do business with any Federal agency because of restrictions that still remain in many of our Federal acquisition laws. Among ARWG's most unique features are its breadth and diversity as well as the degree of unanimity that exists within the coalition on the need for continued vigilance in the acquisition reform arena.

ARWG 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 initiatives to continue pushing the acquisition reform agenda forward.

BACKGROUND

Much has been accomplished in recent years to streamline the Federal acquisition system, including the enactment of FASA, the 1996 Clinger-Cohen Act (Federal Acquisition Reform Act) and the FAR Part 15 rewrite. These actions were part of an extensive bipartisan effort to streamline and reform the existing costly and complex Federal procurement process. FASA and Clinger-Cohen represent the most comprehensive government-wide acquisition reform statutes in over a decade. The principal objective of both laws is to strike a more equitable balance between the multitude of government-unique policy requirements imposed on Federal procurements and the

need to lower the Federal government's cost of doing business, with particular focus on the repeal of those which are non-value added.

In enacting FASA and Clinger-Cohen, all parties agreed that the real test of these two laws would be in their implementation. Though it's been almost seven years since the passage of FASA and five since Clinger-Cohen, acquisition reform remains in a very critical phase. Diligent oversight of FASA and Clinger-Cohen, and of agency initiatives to push the envelope, is needed to ensure that the promises and opportunities envisioned in these laws are not lost.

Of course, we recognize that cultural acceptance of major acquisition reform will require time. Training and education of both industry and Government acquisition workforces is critical to ensure these efforts take permanent root, and not become mere words to be mouthed but not truly implemented. People become the most critical factor to success where there is less detailed micro-management of the process and more reliance on discretion and the exercise of judgment in carrying out the responsibilities in Government purchasing. Instead of micro-managing through detailed rules and regulations that control the actions and restrict the initiative of individual employees, we want to rely on empowered teams (*i.e.,* professionals with appropriate experience, training and judgment, who are authorized on behalf of the government to make the best decisions in the circumstances of each procurement). This will unleash the creativity and innovation required to make the breakthroughs necessary for world class competitiveness.

The Government spends approximately $200 billion a year on the procurement of goods and services. This volume of expenditures evokes an understandable concern for ensuring the interests of the taxpayer are protected. However, the rules put in place to protect the taxpayer are excessive – and add costs rather than saving money. In the past decade, these problems were addressed in two studies – the Acquisition Law Advisory Panel on Streamlining and Codifying Defense Acquisition Law (the so-called Section 800 panel review) and the National Performance Review. These studies demonstrated that the Federal procurement system has evolved into a complex maze of laws and regulations that makes the process too cumbersome. Hence, it becomes more difficult for suppliers to deliver quality products and services at reasonable prices, or for government personnel to exercise prudent discretion and good business judgment. Furthermore, the studies showed that this system discourages companies – especially commercial companies – from doing business with the government.

These two studies documented the need to streamline procurement procedures to increase access and competition in Federal procurement, and save the Government money. Of course, as we continue to move toward addressing the barriers to a streamlined process, we must remain cognizant of the reasons – *i.e.,* the concerns over fraud, waste and abuse – that led to enactment of the complex laws and regulations in the first place. A fundamental goal of FASA and Clinger-Cohen was to create a more responsive procurement system that provides more discretion to Government buyers and freedom for those who sell to them while maintaining adequate checks and balances to ensure fairness and integrity.

FASA facilitated these objectives by 1) making it easier for the Government to acquire commercial goods and services and to use commercial practices; 2) streamlining the rules and regulations for high-volume, low-value Federal procurements; and 3) improving access by small business to

Government contracting opportunities. The Clinger-Cohen Act built upon the advances made under FASA and further reduced the rigidity of our Federal procurement system – thereby enhancing the Government's ability to satisfy the needs of the end user while concurrently protecting the interests of the American taxpayer.

One important consequence of these laws was to send a signal that was heard throughout Government – that Congress truly supported acquisition reform. While many of the institutional barriers to smart or efficient acquisition were more perceived than real, those barriers are coming down and we are experiencing greater agility and innovation in the conduct of Government procurement. Indeed, acquisition reform is founded on the concept of mutual benefit and common sense. Both, the Single Process Initiative and the increased use of performance specifications are examples of reformed approaches to acquisition that achieve a number of critical enhancement goals:

- Deregulation – moving toward commercial practices;
- Improving performance, responsiveness and reducing costs;
- Partnering and open dialogue;
- Risk management instead of risk avoidance ;
- Emphasis on results, not on how to achieve results;
- Decentralization and delegation;
- Common-sense decision-making;
- Adoption of dispute resolution techniques;
- Emphasis on past performance as a major discriminator.

In the end, the Government customer benefits by being able to obtain the best product in the most efficient and responsive manner.

ARWG believes that the legislative, policy and regulatory changes that have been made are helping to reduce costs, enhance efficiencies and promote quality management and will continue to help 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.

WORKFORCE ISSUES

Turning for a moment to the Department of Defense, we would like to comment on the human capital crisis facing the Department – while particularly significant at DOD, the scenario will be played out across the Government over the next few years.

The national defense industrial base faces a vast talent uncertainty for the future. In the public sector, the Department of Defense, which currently employs 37 percent of all civilian Federal workers, has undergone significant downsizing of its civilian, as well as its military, workforce. Between fiscal years 1989 and 1999, DOD reduced its civilian workforce overall by about 400,000 positions, from approximately 1,117,000 to 714,000 and this downsizing is expected to continue through the first half of this decade. The President's fiscal year 2001 budget request projected additional reductions down to a level of 637,500 by fiscal year 2005, a cumulative reduction of nearly 43 percent from fiscal year 1989. Between 1987 and 1999, the active component military workforce underwent similar reductions, mainly focused in mission supporting functions. During the same period, the defense private sector reduced its workforce by over 1,000,000 positions and has significantly right-sized its remaining infrastructure through mergers, acquisitions and divestitures, as well as partnering with Government.

Across both sectors the average age of the workforce has been increasing, while the proportion of younger staff, which represent the future organization's talent and leadership, has been dropping. DOD data shows that the average age and years of service of a DOD civilian increased significantly from 1989 to 1999. The average civilian employee was 41.6 years old with 13.4 years of service in fiscal year 1989, a figure that increased to 45.7 years of age with 17.6 years of service by fiscal year 1999. Some of the most extreme workforce aging situations exist in the Service depots. For example, the average age at the Corpus Christi Army Depot is 50.5 years and increases annually by a year. In contrast to the growth in the percentage of older employees, the percentage of younger employees is falling. From fiscal year 1987 through fiscal year 1992, the percentage of DOD's permanent fulltime civilian work force under the age of 31 dropped from 18 to 13 percent. More recent data indicates that, as of September 1999, only 6.4 percent of DOD's civilian workforce was under the age of 31. These trends are also evident in the active duty military and within the private sector. The defense industry, public or private, has been unable to attract younger workers.

At the same time the number of skilled workers has dropped across the "trades" For defense companies, this is especially true for high technology jobs and within the engineering fields. Salary competition from exclusively commercial firms is intense, with starting salaries for software engineers that are1.5 to 1.75 times what defense firms are able to pay and remain competitive.

Today's national defense structure demands a dynamic, results oriented workforce with the talents, multidisciplinary knowledge, and up-to-date skills to enhance the organization's value to its customers and to ensure that it is equipped to achieve its mission. The public and private sectors must work together to address this problem.

NEXT STEPS

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 2001,

which are summarized in this statement. The complete package, with detailed background papers, was submitted to the subcommittee in early February.

The 106th Congress took a number of significant steps toward addressing the issues ARWG raised over the last couple of years. We greatly appreciate the action taken on these proposals and stand ready to continue to work with the Members and staff as we jointly seek to better the system.

Services Acquisition Reform

As we move forward with proposals for the 107th Congress, we note that contracting for services is becoming an ever more significant factor in all of Government acquisition. The Government is increasingly relying on private industry to deliver cost-effective, quality services. In a January 2, 2001 memo on Performance Based Services Acquisition, [1] Dr. Jacques Gansler (Under Secretary of Defense for Acquisition, Technology and Logistics) noted that "*From 1992 through 1999, DOD procurement of services increased from $39.9 billion to $51.8. In 1999, total dollars spent on service acquisition equaled the amount spent on supplies/systems.*"

However, reforming the way services are acquired has not received the level of emphasis that has been evident in the procurement of systems. Acquisition reform initiatives (*e.g., a Services Acquisition Reform Act*) aimed specifically at services contracting are now needed to help the Government continue to reduce its infrastructure and costs. While ARWG has not yet developed a comprehensive initiative, a number of individual proposals are included in this legislative package (*e.g.*, time and materials contracting, clarifying the definition of commercial services, defining commercial entities, and authorizing longer term contracts). In addition, the DOD initiative on Performance Based Services Acquisition will facilitate the adoption of best commercial practices for the acquisition of services. The concept of Performance Based Service Acquisition (PBSA) focuses on WHAT the government wants and leaves the HOW to the contractor. As the PBSA memo states, "*PBSA strategies strive to adopt the best commercial practices and provide the means to reach world class commercial suppliers, gain greater access to technological innovation, maximize competition and obtain the best value to achieve greater savings and efficiencies.*"

PBSA is not an entirely new concept – it was first addressed in an Office of Federal Procurement Policy letter, signed out on April 9, 1991, that focused on the use of performance requirements and quality standards. Subsequently a pledge signed by 26 agencies and 4 industry associations addressed a limited pilot program for selected service contracts. While the pilot program showed promising results in terms of decreased price and improved performance, it focused only on civilian agencies and has not been expanded. In order for PBSA to fulfill the ideals laid out in the 1991 policy letter, there needs to be a changed mindset both within the

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[1] Architectural and Engineering services are exempt from performance based contracting . FAR 37.102 states... When acquiring services, including those acquired under supply contracts, agencies must--(1) Use performance based contracting methods to the maximum extend practicable, except for-(i) Architect-engineer services acquired in accordance with 40 U.S.C. 541-544 (see part 36).

Government (where personnel are traditionally more comfortable with mandating how something should be done) and industry (where there needs to be a better understanding of the Government's true requirements).

Commercial Acquisition Practices

Over the past 50 years, the Federal government has developed a broad range of unique controls and requirements for its contractors and subcontractors. The Government now is attempting to realign its purchasing processes to achieve lower costs and to 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. The Government must make this transition to commercial practices while maintaining proper stewardship of the public trust.

The 1994 Federal Acquisition Streamlining Act (FASA) and the 1996 Clinger-Cohen Act enabled major changes in the way the Federal government buys commercial items. As the Federal government and industry implemented these changes over the last several years, it became evident that further change and clarification was necessary to reap the full savings in cost and efficiency initially envisioned; this is especially true in the services contracting arena. The Government's access to commercial firms is still limited by the way the statutory definition of commercial items is being applied. In addition, many of the newly authorized commercial purchasing techniques for acquiring commercial goods and services have been underutilized, in part, because of the resistant culture of Government buyers and end-item users.

We have outlined some areas in which the full potential of existing commercial practices has not been recognized and employed, either because of legislative or regulatory restrictions, or failure to use the flexibility provided. These are more fully discussed in detailed background papers. Briefly, the ARWG recommendations for 2001 would:

- Authorize Additional Contract Types in FAR Part 12
- Clarify Definition of Commercial Services
- Extend Application of Simplified Acquisition Procedures to Certain Commercial Items
- Improve Competitive Sourcing of Commercial Activities
- Include "Commercial Entity" in the Statute
- Modify the Definition of Commercial Item (10 U.S.C. 2464)
- Provide Trade Agreements Act Exemption for Information Technology Commercial Items
- Revise Remedies Provisions under the Civil False Claims Act
- Revise Use of Commercial Leasing by the Government

While not a legislative issue, ARWG also would like to point out that a clarification to FAR Part 12 is needed to facilitate the acquisition of commercial construction services. Clearly, construction services are offered and sold competitively in substantial quantities in the commercial marketplace.

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 program development and production cycle times, and costs. The second is to strengthen the technology and industrial base through increased Government access to, and use of, commercial items that incorporate 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 initiatives to address the major barriers to more efficient Federal purchasing:

- Allow Exceptional Case Waiver of Cost or Pricing Data Applicability to Subcontractors
- Eliminate Impediments to "Other Transaction" Contracting Authority
- Revise the Cost Accounting Standards Act
- Establish Review Panel for Cost Principles

Financial Health of Government Contracting Industry

The defense industrial base is entering an era of rapidly advancing, commercially driven technological change. In November, the Defense Science Board released its final briefing entitled, "*Preserving a Healthy and Competitive U.S. Defense Industry to Ensure our Future National Security.*" The focus of the report is on the adequacy of the defense industry to provide the equipment needed by war fighters in performing their national security responsibilities. The report reviewed governing policies and regulations and considered whether these rules supported or weakened good business practices, and whether these same rules supported or weakened the technology capabilities of the defense industrial base. A healthy, competitive and innovative industry, to meet defense needs should be closely integrated with the commercial marketplace.

The Task Force report recommended that use of multi-year production contracts be expanded as a means of providing defense companies with stable revenue and cash flow. Multi-year 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.

Of equal concern is the issue of retroactive environmental liability and the economic threat to the entire defense industrial base. In this regard, retroactive liability is a potential unfunded liability of such enormous magnitude that it could place many Government contractors on the brink of or into bankruptcy.

Limitations on Global Competition

The current export license system and its licensing processes does not support today's business demands. Unless the system is streamlined and aligned with today's objectives, the industries on which the U.S. security depends will continue to be adversely impacted. ARWG recommends

that Congress press for rapid implementation of an electronic data system that connects all relevant agencies (State, DOD, Commerce, Customs) and industry, to facilitate not only licensing, but also compliance and data analysis. In its background paper, ARWG also outlines a number of specific recommendations.

The Defense Export Loan Guarantee (DELG) Program was initiated by the Congress in 1996, but it has inherent limitations that limited its usefulness. ARWG has identified several changes that would result in the DELG being a more effective 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 – the issue of the "third-party" certification needs to be clarified as it relates to a contractor's subcontracting goals. Also, we urge the Congress to allow for the value of first-tier subcontract awards to be considered as a prime contract when assessing the dollar value of all contract awards for purposes of goal achievement
- Task order construction contracts – the Small Business Competitiveness Demonstration Program has provided increased contracting opportunities for small businesses in certain areas but has created some ambiguities related to task order contracts that need to be resolved.
- Federal Prison Industries – its current statutory preference as a mandatory source on Federal contracts should be eliminated, and its attempts to enter the services marketplace should be curtailed.
- The Service Contract Act – this act provides important protections for service employees but has lagged behind the times and should be updated. The current $2500 threshold established when the Act was created in 1965 should be increased to the "simplified acquisition threshold" of $100,000; and there should be an exemption from its application to commercial purchases made under FAR Part 12.

July 12, 2001

The Honorable Thomas M. Davis
Chairman
Government Reform Subcommittee on Technology
and Procurement Policy
U.S. House of Representatives
B-349-A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Davis:

I am writing to follow-up on the hearing held by the Technology and Procurement Policy Subcommittee on *Outsourcing*. The Contract Services Association of America (CSA) appreciated the opportunity to submit a statement for the record during the hearing.

We commend you for your continued interest in improving the competitive process to get the best value for the taxpayer. As you are aware, Government service contractors have played an important role in supporting our Government agencies in a cost effective and responsive manner. I would like, therefore, to take this opportunity to clarify certain issues raised during the hearing regarding private sector Government contractors. Our specific concerns are detailed in the attached white papers. Briefly, they include:

- *Perception: The first assertion is that Government service contractors have few rules and achieve savings by paying their employees less.* Industry Perspective: The Federal procurement process has evolved into a complicated web of laws and regulations requiring companies doing business the Government way to implement unique systems for accounting, quality assurance, production and management. Also, The Government service contract industry is governed by a host of wage laws, among them the Service Contract Act (SCA). Under the SCA, the Government provides wage rates for a variety of employees in addition to requiring money to be spent on fringe benefits. Violations of the Service Contact Act can result in fines and debarment. CSA conducts a successful program with the Department of Labor to promote understanding of and compliance with the Service Contract Act. Attached is a report by the General Accounting Office, entitled *Effects of A-76 Studies on Federal Employees' Employment, Pay and Benefits Vary* that addresses some of these issues.

- *Perception: The second assertion is that lowest cost always assures long-term performance and best value.* Industry Perspective: Best Value is generally represented by the most advantageous offer, its affordability, and a long-term commitment to performance and innovation, which in the end provides a customer the flexibility to buy precisely what it needs. Unfortunately, most public-private competitions conducted under OMB Circular A-76 do not achieve these objectives since competitions are conducted under a Two-Step selection process, which ultimately focuses solely on the lowest proposed overall price/cost. Many Government agencies now realize that lowest cost does not assure superior performance and innovation or long-term partnerships and commitment.

- *Perception: Another assertion is that once a private sector company wins a public-private competition, their performance is never reviewed and there is no more competition on that contract.* Industry Perspective: For a number of reasons, many qualified private sector companies refuse to bid on initial A-76 competitions. However, within the private sector there is a robust opportunity for competition each time the contract comes up for rebid (every 3-5 years). In most cases, these recompeted workloads have been refined in scope and there is an established cost and performance baseline on which offerors bids can be evaluated. Recompetitions, unlike initial competitions, are generally based on best value not simply lowest manpower cost – and offer the best value to the taxpayer.

I appreciate this opportunity to clarify some of the issues raised during the hearing. I look forward to working with you as we move the debate forward on how best to protect the interests of the taxpayer, the Federal employee and the Government contractor. Indeed, I would be happy to come in to speak to you further regarding these issues.

Thank you for your consideration.

Sincerely,

Gary Engebretson
President

Requirements on Service Contractors
What is the Government Oversight on the Private Sector?

Issue: Over the years, the Federal procurement process has evolved into a web of complicated laws and rules requiring companies doing business the "Government way" to implement unique systems for accounting, quality assurance, production and management. While these laws and implementing regulations protect the Government from cases of fraud and abuse – and ensure "full and open competition" there is an associated cost to the taxpayer. These requirements equally apply to the service industry.

Background: Several inaccurate assertions have repeatedly been made about the services industry. The first assertion is that service contractors achieve savings by paying their employees less – and that there is little, or no, oversight of Government service contractors. This is misleading and wrong.

To begin with, the service contract industry is governed by a host of wage laws; regulations relating just to employment laws with which Government contractors comply cover over 4,000 pages of [fine] print. Chief among these is the Service Contract Act (SCA). Under the SCA, the Government determines wage rates for employment categories in addition to requiring expenditures for fringe benefits. Violations of the Service Contact Act can result in fines and/or debarment.

Under the SCA, service contractors are required to:

- Pay the minimum monetary wage listed in the applicable wage determinations;
- Pay a bona fide fringe benefit or equivalent at the hourly cost listed in the wage determination;
- Prohibit services from being performed under conditions controlled by a prime contractor or a subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the service employees;
- Keep detailed records for all employees who perform services under the prime contract for a period of three years from the date of completion of work on the prime contract;
- Include the standard subcontract clauses in all subcontracts that describe the requirements of the SCA;
- Review subcontractor pay practices to ensure their compliance with SCA (and the prime can be debarred on the basis of non-compliance by a subcontractor);
- Give notice to all service employees, either directly or by posting the wage determination in a prominent location, of the applicable minimum monetary wage applied to their occupational classification and the fringe benefits requirements; and
- Respect collective bargaining agreements in place (for successor contracts).

According to the implementing regulations in the Federal Acquisition Regulations (FAR), all solicitations for service contracts must include the requirement that employees of service contractors be paid the same Federal Grade Equivalence (FGE) in wage rates, and be given the same in fringe benefits, as if that contractor employee was employed by the Federal contracting agency. In addition, private sector Government contractors must abide by the Fair Labor Standards Act, the Occupational Safety and Health Act and numerous other statutes – many with are not applicable to in-house providers. Private firms also pay Federal, State and local taxes and comply with various socio-economic laws (*e.g.,* small business subcontracting goals) – a requirement also not imposed on in-house Government activities.

Additionally, 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). Nor does the Government need to comply with cost accounting standards or the Truth in Negotiation Act, which require Government contractors to comply with detailed standards and provide certified cost and pricing data.

Furthermore, Government activities are not held to the same standard of historic performance as the private sector when competing to perform the work. Within DOD, private contractor's past performance is, by policy, accounts for at least 25% of every award decision.

Finally, Government contractors are subject to pre-award audits, and quarterly/annual post-award audits as specified by the contract. Violations of the contract can lead to financial plenty or termination for default.

Impact on Government Acquisition: According to a recent General Accounting Office audit (Reference: DOD Competitive Sourcing, Effects of A-76 Studies on Federal Employees' Employment, Pay and Benefits Vary, March 2001), contractors and defense officials agree that personnel reductions are key to achieving reduced costs from A-76 competitions. But this is NOT achieved through slashing wages. The GAO report noted that Government and contractor officials *"use a variety of techniques to minimize the number of personnel needed to perform a function. These techniques include limiting proposed activities to the streamlined requirements detailed in the performance work statement, substituting civilian for military workers, designing a new work process, multiskilling (employees performing more than one skill) and proposing modern methods and equipment to complete the tasks."*

The GAO report also noted that contractors actively recruit displaced and retired workers because these individuals have the experience to perform the work. GAO stated that "employees that go to work for a contractor may have a different salary than what they had with the Government, which could be higher or lower. Salaries and benefits for most employees that provide services on Government contracts are based on the pay and benefit wage scales established pursuant to the Service Contract Act. Therefore, any perceived problems should be addressed through the SCA wage and benefits determination process.

Contractors do not have a "warehouse" of people just waiting to take over the job. A study done by the National Commission of Employment Policy (NCEP), a branch of the Department of Labor, indicates that over half of the workers on outsourced Government functions went to work for the private sector firm, while twenty-four percent of the workers were transferred to other jobs and seven percent retired. The study concluded that less than seven percent of the workers needed to find new employment.

Outsourcing both saves money and provides the Government needed personnel flexibility to refocus valuable assets on higher priority missions.

July 12, 2001
Contract Services Association of America

A-76 Competitions
Does Today's Two-Step Process Achieve Best Value?

Issue: Best Value is generally represented by the most advantageous offer, affordability, and a long-term commitment to performance and innovation, which in the end provides a customer the flexibility to buy precisely what it needs. Unfortunately, most public-private competitions conducted under OMB Circular A-76 do not achieve these objectives since competitions are conducted under a Two-Step selection process, which ultimately focuses solely on the lowest proposed overall price/cost. Many Government agencies now realize that lowest cost does not assure superior performance and innovation or long-term partnerships and commitment. Today's challenge is how the Federal government acquires services in order to maximize performance, innovation and competition, and most often at a savings.

Background: Whether buying life cycle product support for a weapons system or simply acquiring a support service, "best value", as defined in FAR 2.101 means *"the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement."* Many have arguer that "best value" is, by its very nature subjective. Others believe "best value" may not mean the same thing in every instance, but there is no reason why Government, like the commercial sector, should not be able to define, with reasonable precision, what "best value" means on a specific solicitation. Unfortunately, in A-76 two-step competitions the Government often selects a private sector offeror proposing the highest staffing, purportedly representing "best value." But the highest staffing does NOT necessarily represent "best value." Staffing, cost reductions and innovations that bring efficiencies DO represent "best value."

The Department of Defense has begun to define other factors of importance. For example, the "draft" DoD Product Support Guide, entitled "A Program Manager's Guide To Buying Performance" states that, *"Life cycle product support management is directed at ensuring and continuously improving the operational effectiveness of weapon systems for the warfighter. A continuous challenge . . . is to provide a ready, technologically superior weapon system capability that meets the warfighter's evolving requirements. This task includes the life-cycle management of warfighter requirements, continuous monitoring of the performance of the weapon system, the assessment of how well actual performance matches warfighter requirements, the identification and insertion of technology enhancements and the continual refinement of the "best value" product support solutions."*

Additionally, the December 2000, DoD Performance-Based Services Acquisition Guidebook states, "It is the policy of the Department of Defense that, in order to maximize performance, innovation and competition, often at a savings, performance-based strategies for the acquisition of services are to be used whenever possible. While not all acquisitions for services can be conducted in a performance-based manner, the vast majority can. Those cases in which performance-based strategies are not employed should become the exception."

Impact on Government Acquisitions: Today, most public-private competitions for the acquisition of services continue to be acquired under a two-step process. In the first step, the Government conducts a competition among private sector offerors, generally based on some "best value" proposition. During the second step, the selected "best value" offeror's price is compared to that of the Government's most efficient organization (MEO) in accordance with the OMB Circular A-76 Supplemental Handbook. Essentially, the lowest price, then, wins. This two-step process is universally viewed by the private sector, and by an increasingly number of public sector agencies as unfair and certainly not capable of acquiring the "greatest overall benefit in response to the requirement" as defined by FAR 2.101. Further this process does not consider the MEO's management plan, technical approach including past performance, quality plan, transition plan, long-term performance risk and/or in some cases their

subcontract plan. Additionally, the overall realism and affordability of all proposals must be considered not simply the lowest cost based on a single factor – generally projected FTEs.

Retaining the current Two-Step competitive process will actually decrease competition and access to innovative solutions. Today, many Federal outsourcing efforts receive no bids from the private sector. The Government must understand that companies have finite Bid and Proposal (B&P) budgets which are based on the company's revenue base and prescribed General and Administrative (G&A) rates. This annual B&P budget is not unlike the Government's operating budget in that it is planned well in advance and based on the anticipated market place, potential opportunities and known competitors. However, unlike the Government, companies are obligated to their shareholders to make a return on any investment. Companies conduct bid/no bid decisions based on a decision matrix and the uncertainly of the Two-Step process increasingly is being viewed as an unwise investment.

To illustrate, the A-76 Two-Step process requires a company to spend between $250K to $1.0+M in B&P on a solicitation with a generally ill-defined requirement/performance work statement and a selection and contract structure, which is often equally vague. This coupled with an 18-24 month acquisition schedule that normally slips several months before actual award increases risk and cost of proposal. For most major solicitations, competition is fierce with as many as five privates sector competitors, which lessens the probability of win to 20-30%. Assuming there is no protest as a result of the first competition, the "winning" competitor now faces a second competition with the Government's MEO. This second step is a simple cost comparison with a built-in $10M or 10% cost advantage for the MEO. Given today's Government win percentage of 57% this further reduces the private sector's overall win probability to between 10 and 12%. Bottomline, there is little incentive for private sector companies to participate in initial A-76 competitions under a two-step process.

Industry believes that the Government must adopt an acquisition process that communicates measurable outcomes rather than directs performance processes. In other words, define the service requirement in terms of performance objectives and provide the offerors (public or private) the latitude to determine how best to meet those objectives. Key to achieving these goals is a Performance Work Statement (PWS) that describes the requirement in terms of measurable outcomes rather than by prescriptive methods. These measurable performance standards define what is acceptable performance including cost schedule and quality and a plan on how performance will be measured. When applicable, incentives including award-term contracts should be used to encourage performance that exceeds standards. A performance-based approach to outsourcing will not only achieve greater savings it will at the same time assure life-cycle management of customer requirements, continuous monitoring of the system/functional performance, the assessment of how well actual performance matches requirements, the identification and insertion of technology enhancements and innovation and finally, the continual refinement of the "best value" solutions.

July 12, 2001
Contract Services Association of America

Continuous Competition for Outsourced Contracts
Are Workloads Won by the Private Sector Subject to Review or Recompetition?

Issue: There remains a perception that once a private sector company wins a public-private competition their performance is not reviewed and there is little incentive for introducing innovation since there is virtually no threat of the contract ever being recompeted.

Background: To fully understand this issue one must examine both initial public-private competitions under OMB Circular A-76 and recompetitions of previously outsourced workloads.

Initial public-private competitions are often problematic. This is because the performance work statement (PWS) includes inadequate workload baseline. Also, as we noted in our previous "best value" paper, the two-step competitive process does not maximize performance, innovation or cost savings since ultimately, the winning offer is solely based on lowest manpower cost with a built-in advantage to the public sector Most Efficient Organization (MEO). For these reasons many highly qualified companies refuse to bid on initial A-76 competitions. However, within the private sector there is a robust opportunity for competition *each time* the contract comes up for rebid. In most cases, these recompeted workloads have been refined in scope and there is an established cost and performance baseline on which offerors bids can be evaluated. Recompetitions, unlike initial competitions, are generally based on best value, not simply lowest manpower cost – and offer the best value to the taxpayer.

It is also important to remember that next to a good specification (including reliable workload data), there is nothing more critical to the evaluation of offers (public or private) than a competent, thorough, and responsible Independent Government Estimate (IGE) of the manpower and non-labor resources needed to successfully perform the specified work with minimum risk of unsatisfactory performance. Unfortunately, an IGE is seldom done. Or, if one is prepared, it is typically seriously flawed because it was based on factoring from the staffing and other resources of the existing contract. Clearly, if the existing contract is not optimized, any IGE produced by such factoring will also be sub optimal. Ideally, a responsible IGE should be derived from a thorough work breakdown structure estimate that is zero-based and which reflects an appreciation of modern commercial practices.

Despite opinions to the contrary, reviews of proposals and actual performance of Federal government contracts outsourced to the private sector under OMB Circular A-76 are regular and extensive.

- First, past performance is an increasingly important evaluation factor in selecting the best private sector competitor – ensuring that the Government selects a firm with a prove track record for providing quality service in a timely manner.
- Second, contract performance including, but not limited to cost, schedule and quality are reviewed quarterly and contract incentives are based on established performance metrics.
- Third, if the contract is a multi-year contract (*e.g.,* 3 or 5 years), the incumbent contractor is subject to annual reviews and audits before an option year can be exercised.
- Fourth, incumbent contractors have a vested interest in performing well and introducing innovation. If they do not perform well and even become complacent, their competitors will be "hot on their heels" to win the contract under the scheduled recompetition. Bad performance may also result in contract termination and/or documentation of a history of bad performance, which precludes the contractor from winning additional work.
- Finally, this recompetition factor not only helps drive down subsequent contract costs, but helps spur process innovation and efficiency.

A continuing criticism of these type contracts is perceived cost growth. Unfortunately, the lack of a certified cost accounting system within Government contributes to this issue – although most private sector Government contractors must comply with detailed cost accounting standards (or, in the case of commercial companies, follow commercially acceptable accounting practices). Additionally, changes in workload scope, after the contract has been awarded, are hard to document without an adequate initial workload baseline. Again, an Independent Government Estimate (IGE) becomes a baseline for justifying future scope growth driven by changing requirements and/or evaluating cost adjustments. An adequate baseline also allows visibility to contract cost growth due to Department of Labor wage determination increases or expanded scope of work.

Impact of Government Acquisition: Once workload has been outsourced, and as the contract matures, the workload data becomes better defined and documented under the contract. During recompetition, this enables additional contract elements to be bid as firm fixed-price, rather than cost plus, which is more advantageous to the Government.

Recompetition among private sector competitors on contracts that have been outsourced under A-76 continues to cut costs and create efficiencies for the Federal government.

July 12, 2001
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July 12, 2001

Congressman Tom Davis
Chairman, House Committee on Government Reform
Subcommittee on Technology and Procurement Reform
B349A Rayburn Building
Washington, DC 20515

Dear Congressman Davis:

Thank you for your follow-up questions on the May 22 hearing. I am enclosing my replies for the hearing record along with my corrected testimony:

(1) *You indicated that part of the solution requires a change in cultural practices to make it easier for the government to hire upper-level technical experts, who would gain their technical expertise in industry and then do a few years of public service without committing an entire career. How would you suggest that the subcommittee develop this concept? Also, how would you address concerns dealing with the Revolving Door legislation that bars employment -- intended to protect the government's interests?*

My thought is to make it more common for the government to hire people at a GS12-14 level -- which would correspond to people with 4-7 years of work experience prior to entering government -- for career positions, not for any specific term, but with the expectation that many would choose to stay in government only for a few years of public service. This would be an important leg of a larger strategy to deal with the government's human capital crisis. Currently, in general the only two points of entry for people into government is either the entry level or senior political appointees. Most young people today do not expect to spend their entire lives in one organization, but fully expect to switch jobs. Government is not organized to respond to this change in values. Furthermore, with the growth of public and community service programs, more young people than ever before are familiar with the idea of spending some time doing public service even if one's life is not fully devoted to such service, and the government has not taken advantage of this potential source of talent. It would be expected that some of these people coming into government might come from the Washington Metro area, but others (if the opportunities are appropriately advertised) will come from "outside the Beltway" and be leaving industry jobs that were in no way related to government. This experience might be particularly useful in connecting more citizens outside the Beltway with their government and thus have important benefits from a democracy and citizen trust perspective as well.

Other scholars, such as Paul Light, have made suggestions along somewhat similar lines. My guess (though I'm not certain) is that there are no, or very few, statutory or regulatory bars to making greater use of mid-career hires, but there are significant cultural barriers.

I believe the Subcommittee could play a crucial role in encouraging this cultural change. I would urge the Subcommittee to (l) request that the Office of Personnel Management prepare a brief report to the Subcommittee discussing any statutory, regulatory, or HR management inhibitors (such as pension portability) to mid-career hiring, and to suggest to the Subcommittee a strategy to make this practice more common in government and (2) work with the Administration to choose a pilot agency for setting such a program in motion, where the agency would deal with implementation issues in bringing about the necessary changes in practice (including how one would advertise for these positions, training for these employees, and possible conflicts involving more junior civil servants who plan to spend their entire careers in government).

My guess is that "revolving door" provisions would not create a strong barrier to this approach, unless it turned out that there were strict rules for civil servants at this level requiring disposing of stock in companies that conceivably dealt with the agency where they would be working. (Such rules would, in my view, be a significant barrier, at least for some.) I do not believe that the one-year post-employment restrictions in place for civil servants at this level would be any significant bar to people being eligible for the vast majority of private-sector jobs they might consider upon leaving the government.

(2) *With respect to contract bundling, you say that we have over regulated in this area. Is it your view that Congress should enact legislation to provide increased flexibility to contracting officials to make appropriate use of consolidated contracts? Or, in your view, is the most appropriate course of action to hold off on any legislation and focus on greater contract management?*

In my view, the current requirement in legislation that the agency produce some documentation of economic benefits to the government (in terms of quantity discounts, better terms and conditions, etc.) is probably appropriate, though, as often in government, the risk exists that it will be taken to extremes of documentation. Where I believe current legislation is overly restrictive is in providing SBA extensive opportunities for appeal of agency decisions to consolidate requirements, which allow SBA to take an "appeals" process all the way up to the top of another agency. SBA has no interest in the effective or efficient execution of the mission of other agencies, and it acts like an interest group simply trying to stop contract consolidation. I believe this overly tips the balance against frontline agency people, trying to find better ways for their organizations to do business, who must now contend, not only with a normal internal organizational inertia against change, but also at the prospect of having their decisions second-guessed and filled with controversy all the way up their chain of command. Under current statute, the easy thing for an agency to do is just continue how it was acting in the past, and this is an unfortunate disincentive to efforts to improve an agency's business practices.

As a practical political matter, however, I believe that repeal of SBA's existing appeals authority in this area is unlikely, though I do not believe the appeal authority is good public policy. However, legislation has been introduced in other committees would either give SBA veto authority over the decisions of other agencies to consolidate requirements, or would send these decisions to OMB for resolution. Both of these are terrible ideas, that would put an even further damper on initiatives to save the government money and improve contractor performance.

(3) *You are calling for legislation to encourage what has become known as "share-in-savings" contracting. Could you explain why the standard types of incentive contracts (as currently described in the FAR) are not sufficient?*

None of the current kinds of incentive contracts discussed in the FAR accomplishes what share-in-savings contracting allows, because existing incentive contracts in the FAR both excessively limit the payment the contractor can achieve for successful efforts and excessively limit the penalty to contractors for failed efforts.

The two major kinds of incentive contracts currently discussed in the FAR are "cost-plus-incentive-fee" and "cost-plus-award fee." The former kind of contract is aimed to incentivize a contractor to come in "under budget" for some agreed-upon work. If the agreed-upon estimate for the work is $10 million, and the contractor bills the government (in a cost-reimbursable situation) for $8 million, the contractor gets to share some of the difference between $8 million and $10 million. This is a fine contract form, but it is based on a different principle from share-in-savings. This form of contract tries to reduce the cost to the government of some work being contracted for; share-in-savings focuses not on the contractor's costs but rather on the benefits to the government the contract realizes. In the most radical form of share in savings, the government doesn't pay any of the contractor's costs; it pays the contractor a share of the benefits the government receives.

"Cost-plus-award-fee" contracts provide the government with the ability to pay bonuses – increased profits – to contractors who perform well along some dimension or dimensions the government outlines. Because the contractor receives its costs even if performance is only barely acceptable, and the award fee feature puts only the size of the contractor's profit at risk, the amounts that can be paid out in award fees are relatively modest, even for excellent performance, and the penalty to the contractor for marginal performance is less (because the contractor still receives costs plus a baseline profit).

Having noted that current incentive contracts in the FAR do not accomplish what share-in-savings contracting seeks to incentivize, I nonetheless agree that there is no current bar to doing share-in-savings contracting as a contract form (although agencies need to deal with funding issues for share-in-savings contracts as multiyear contracts). Part 1 of the FAR states that if a practice is not forbidden in the regulations and is good public policy, it may be undertaken by contracting officials. This clearly applies to share-in-savings contracts. However, because of caution among some elements of the contracting community, and because this is a new idea, I believe it would be extremely helpful to cover share-in-savings contracting in the FAR as a contract type, like the other kinds of incentive contracts already discussed there.

(4) *You note in your testimony the recent efforts of DoD to move to performance-based contracting. Do you believe that civilian agencies are using performance-based contracting? To the best of your knowledge, do agencies know how to apply performance-based statements of work?*

I believe that progress is being made but that this continues to be a struggle. I was very impressed during some recent interviews (in connection with a paper I am writing) of mid/senior-level career technical and program people in a number of civilian agencies how many of them spontaneously mentioned performance-based contracting and their efforts to make contracts/task orders performance-based. These comments came in a completely unsolicited way in response to questions that by no means required them to think about performance-based contracting. I believe that agencies will need to use just-in-time training in performance-based contracting, along with consultants, to help them develop performance-based work statements. Pre-RFP advice from potential offerers regarding contract metrics should also be solicited.

(5) *What, in your view, is the future of small business contracting with the federal government if we continue to move to greater contract consolidation?*

Small businesses should continue to be competitive in a number of areas of federal contracting. Small high-tech firms from the commercial world are continuing to enter the government marketplace in great numbers. Small firms should make use in government of the same ways of competing that such firms use seeking private-sector business – a unique niche technology, a quicker decision-making structure, better customer service, and more aggressive pricing (because of lower overhead). In addition, government should look aggressively for areas where there are many competitive small businesses and compete contracts as small business setasides in these areas. Finally, we need to keep continued vigilance about the access of small businesses, as primes as well as subs, to GWAC vehicles and to the GSA schedules.

(6) *Do you believe that government has developed effective tools for sharing commercial best practices governmentwide? If not, how do you believe that this can be done more effectively?*

With bodies such as the CIO Council and the Procurement Executives Council, along with the proliferation of forums and meetings and of training opportunities, the government is doing better at sharing best practices than before. However, more could be done. Meetings and conferences where knowledge is shared should not be seen as "boondoggles" that are the first to get cut when budgets are tight. Knowledge management tools and practices should be applied to sharing of commercial best practices. The government should make more effort to bring in commercial customers to speak to government audiences to talk about their experiences implementing various IT-based or E-commerce initiatives.

(7) *In your statement, you express the importance of sending a consistent signal over time to the acquisition workforce. Is it too early to judge the success or failure of implementation of procurement reform initiatives undertaken in the nineties? Are there ways to move to greater implementation in shorter timeframes?*

I believe the early returns are good. We can point to significant numbers of "success stories" from procurement reform. The Defense Department has saved literally billions of dollars on new weapons projects through better use of commercial technology. The government now gets great prices, great service, and up-to-date technology when it buys COTS IT hardware and software. The chocolate chip cookie spec has been replaced by modern food distribution for the troops. Billions of dollars in administrative expenses, and enormous hassle, have been saved through use of the government purchase card. However, the continued problems of large IT-based modernization projects, such as IRS and FAA modernization, are very worrisome. Progress in implementing performance-based contracting, and in the spread of new initiatives such as share-in-savings contracting, is too slow. We need to reinvent the contracting workforce, many of whom will be eligible to retire in the next few years.

I believe that people at senior levels of the executive branch and Congress can best encourage quicker implementation of change both through encouragement and through continued attention to performance management as conceived by the Government Performance and Results Act. Members of Congress and senior Administration officials should recognize the accomplishments of people on the front lines of the system. We need to continue to move away from a lopsided incentive system that chastises failure but ignores success. I would urge the Subcommittee to hold periodic hearings where career agency people who have worked on valuable improvement initiatives are asked to showcase their efforts.

I hope these responses are helpful.

Very truly yours,

Steven Kelman,
Weatherhead Professor of Public Management

United States General Accounting Office
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August 22, 2001

The Honorable Tom Davis
Chairman
Subcommittee on Technology and Procurement Policy
Committee on Government Reform
House of Representatives

Subject: Contract Management: Service Contracting Trends and Challenges

Dear Mr. Chairman:

On June 13, 2001, you asked me to provide additional comments on several issues that I raised in my May 22 testimony before your subcommittee on the service contracting trends and challenges facing the government. I am pleased to submit the following comments for your consideration.

1. **In your testimony, you indicate "In particular, agencies are not clearly defining requirements, fully considering alternative solutions, performing rigorous analysis, and adequately overseeing contractor performance." In your view, how can agencies do a better job of achieving these goals? Beyond aggressive oversight, do you believe there is the need for additional legislation to achieve these goals?**

The government has had long-standing difficulties in managing service contracts and it is clear that agencies are not doing all they can to ensure that they are acquiring services that meet their needs in a timely and cost-effective manner. We believe agencies can do a better job of achieving this goal by:

- Ensuring that acquisition teams consisting of all key stakeholders—which can include the customer or end user, the contracting officer, representatives from the budget or finance offices, and legal counsel, among others—devote sufficient time early in the acquisition process to clearly define their requirements and consider alternative solutions.
- Putting in place performance management and compensation systems that link performance to the agency's mission.
- Having a training program that provides the workforce with the right skills and tools needed to perform their tasks. And,
- Developing performance metrics that provide feedback on how well the agency's goals are being achieved.

With regard to legislative or regulatory changes, we are monitoring executive agencies' response to Section 804 of the National Defense Authorization Act for Fiscal Year 2000.[1] This section required the Federal Acquisition Regulation be revised to provide guidance to agencies on the appropriate use of task order and deliver order contracts, and was prompted, in part, by our work at six federal organizations.[2] We recently found that Department of Defense (DOD) contracting officers were still acquiring information technology services without receiving competing proposals and by using overly broad work descriptions,[3] and were unaware of special ordering procedures applicable to ordering services using the General Services Administration's (GSA) Federal Supply Schedule program.[4] We made recommendations to the Office of Federal Procurement Policy (OFPP) and to GSA intended to improve the guidance available to the acquisition workforce. While OFPP and GSA have efforts underway to implement our recommendations, neither agency has done so as yet. Additionally, we will assess the need for additional legislative or regulatory changes as we conduct further work on service contracting-related issues.

2. In your statement, you repeatedly stressed the importance of strategic human capital management particularly with the acquisition workforce. To the best of your knowledge, has any federal agency completed a strategic plan for their acquisition workforce and if so, have you reviewed it?

As I noted in my testimony, agencies have begun efforts to address their strategic human capital needs; however, to the best of our knowledge, no agency has completed a strategic human capital management plan for their acquisition workforce. For example, earlier this year, we reported on the extent to which the 24 agencies covered by the Chief Financial Officers' Act discussed human capital issues in their fiscal year 2001 performance plans.[5] Overall, agencies' plans reflected different levels of attention to human capital, ranging from merely identifying human capital challenges to putting forward solutions to address those challenges, such as by defining actual plans, committing resources, and assigning accountability. When viewed collectively, we found that there was a need to increase the breadth, depth, and specificity of many related human capital goals and strategies and to better link them to the agencies' strategic and programmatic planning. For example, very few of the agencies' plans addressed

- succession planning to ensure reasonable continuity of leadership;
- performance agreements to align leaders' performance expectations with the agency's mission and goals;

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[1] P.L. 106-65, October 5, 1999.
[2] *Acquisition Reform: Multiple-award Contracting at Six Federal Organizations* (GAO/NSIAD-98-215, Sept. 30, 1998).
[3] *Contract Management: Few Competing Proposals for Large DOD Information Technology Orders* (GAO/NSIAD-00-56, Mar. 20, 2000).
[4] *Contract Management: Not Following Procedures Undermines Best Pricing Under GSA's Schedule* (GAO-01-125, Nov. 28, 2000).
[5] *Managing for Results: Human Capital Management Discussions in Fiscal Year 2001 Performance Plans* (GAO-01-236, Apr. 24, 2001). As part of the Government Performance and Results Act annual performance planning requirements, agencies are to establish results-oriented performance goals and describe the strategies and resources—including human capital—needed to accomplish those goals.

- competitive compensation systems to help the agency attract, motivate, retain, and reward the people it needs;
- workforce deployment to support the agency's goals and strategies;
- performance management systems, including pay and other meaningful incentives, to link performance to results;
- alignment of performance expectations with competencies to steer the workforce towards effectively pursuing the agency's goals and strategies; and
- employee and labor relations to ground a mutual effort on the strategies to achieve the agency's goals and to resolve problems and conflicts fairly and effectively.

Currently, we are preparing a summary of agencies' attention to human capital issues in their fiscal year 2002 performance plans. Although the summary is not yet complete, our preliminary review indicates that the agencies continue to have difficulty in linking their human capital goals to meaningful performance measures or programmatic results.

In July 2001, we met with representatives from the Departments of Defense and Energy and the National Aeronautics and Space Administration to discuss the status of their efforts to develop a comprehensive strategic human capital management plan for their acquisition workforce. These officials acknowledged that they still have considerable amount of work to do before they complete their plans.

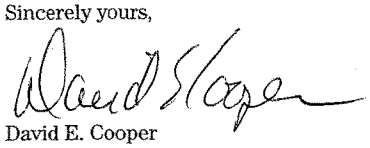
3. In your testimony, most of the evidence reviewed pointed to contract management problems within the Department of Defense. Is this due to a significant amount of work being DOD-oriented? If so, do you believe that GAO should be doing additional work examining contract management within the civilian agencies?

As the largest buyer within the federal government, DOD receives a considerable degree of attention from GAO. Nevertheless, since January 2000, we have issued reports discussing service contract-related issues affecting GSA, Veterans Affairs, Housing and Urban Development, the National Park Service and the Pension Benefit Guaranty Corporation, as well as general contract management issues at the Department of Energy and the National Aeronautics and Space Administration. The issues that we and other oversight agencies identified indicate that service contracting-related issues are not limited to a specific agency, but rather are governmentwide in nature.

To meet this governmentwide challenge, our goal is to identify work that maximizes the use of our resources and look for opportunities to leverage the work of other oversight agencies. In particular, we are focusing efforts to help minimize contracting risks faced by government agencies. Last year, GAO formed a new team, Acquisition and Sourcing Management, in part, to better focus our defense and civilian contract management work. The team's ongoing work includes identifying best commercial practices for purchasing services, determining how GSA's Federal Supply Service and Federal Technology Service are leveraging the government's buying power for acquiring information technology services, and assessing the fees that federal agencies charge other agencies to use their multiagency contracts.

If you have any questions about this letter or need additional information, please call me on (202) 512-4841. Copies of this letter are also available on GAO's homepage at http://www.gao.gov. Key contributors to this letter included Ralph Dawn, Timothy DiNapoli and Gordon Lusby.

Sincerely yours,



David E. Cooper
Director, Acquisition and Sourcing Management

(120080)

GSA Office of Congressional and Intergovernmental Affairs

July 20, 2001

Honorable Tom Davis
Chairman
Subcommittee on Technology
and Procurement
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the responses to questions submitted to David Drabkin, Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy of the General Services Administration from the hearing held on May 22, 2001 before your subcommittee to examine services acquisition within the Federal government.

If I can be of further assistance, please do not hesitate to contact me on (202) 501-0563.

Sincerely,

Glynis L. Bell
(Acting) Associate Administrator

Enclosure

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
www.gsa.gov

Q1: As I indicated in my opening statement, I am working on putting together a Services Acquisition Reform Act. In your experience both at GSA and DoD, do you believe that there are next steps we should take legislatively to assist the acquisition workforce in moving to greater private sector practices?

A1: Because this question raises broader policy issues that require greater coordination and deliberation, I have forwarded this question to the Administrator of OFPP for consideration. GSA looks forward to working with OFPP in evaluating whether additional legislative changes are needed to strengthen acquisition strategies and processes in furtherance of improved government performance.

Q2: I understand that GSA has opened a share-in-savings contract office at the Federal Technology Service. Can you comment on the efforts of that office? Are there particular concerns that this office has heard by agencies that are limiting the use of this procurement vehicle?

A2: FTS in conjunction with GSA's Office of Acquisition Policy is working to promote the use of share-in-savings contracts across the federal government. To date the majority of the effort has been directed at providing advice on what acquisitions are good candidates for the share-in-savings approach.

Q3: What efforts has GSA undertaken to assist other agencies in producing performance based statements of work when contracting for services? Do you have an estimate of the extent to which this contracting vehicle is being used? Do you believe there is consistent knowledge from agency to agency in how to write performance based statements of objectives?

A3: GSA assists its customers in drafting performance based statements of work predominantly through the IT Solutions Program managed by the Federal Technology Services (FTS) on a fee-for-service basis. Last year FTS sales accounted for approximately $5 billion.

Preparing a performance based statement of work is not easy. It is certainly not intuitive. Existing guidance was a good first step in a transition towards a performance based environment, but there is a long way to go. We do not believe that there is consistent knowledge between agencies in terms of how to write or manage a performance based contracting. We have joined with a number of other agencies, including OFPP, to rewrite the existing guidance for use by all Federal agencies.

Within GSA we have formed a team of Acquisition Professionals who are focusing on how we can improve GSA's use of performance based contracting. This effort includes how to better help our federal customers who use the service schedules offered by the Federal Supply Service (FSS). In October 1996, the Public Building Service (PBS) directed that its building service contracts be converted to performance based statements of work as soon as practical.

FSS has developed an ordering process for services in the form of its "Special Ordering Procedures for Services" that are incorporated in all Federal Supply Schedule contracts for services. The ordering procedures were a first step in assisting agencies purchasing services. GSA and FSS are now working on amending the Federal Acquisition Regulation (FAR) to include procedures for acquiring services from the Schedules in FAR subpart 8.4. The next step is education. FSS anticipates launching classrooms and providing templates covering performance based contracting in the Fall of 2001.

Q4: In your work with the Procurement Executive's Council, do you believe you have developed effective channels for sharing information on best practices for contracting?

A4: As you are aware the Procurement Executives Council (PEC) is a voluntary organization of the Executive branch's senior procurement executives. The PEC has helped to facilitate information sharing between agencies. For its part, GSA has been actively participating on the subcommittees that the PEC established to focus attention around areas of interest to the procurement community.

Q5: In your view, has the acquisition workforce received sufficient training in the legislative changes made in the early nineties? If so, what have you done to measure the success of your training efforts? If not, what else do we need to do?

A5: At GSA, we can represent that the changes brought about by the acquisition legislation of the early and mid-1990s have been incorporated in the educational and training materials developed for the acquisition workforce. The success of these efforts, and of the underlying reforms themselves, will be judged by the price and quality competitiveness of our contracts. In this regard, further improvements in agency strategic plans will help us to evaluate whether we are getting good results for the taxpayer dollar.

Q6: It has been noted in testimony today that the Federal Acquisition Streamlining Act was the culmination of a two-year effort that began when Congress established the "Section 800-like" [panel] to comprehensively evaluate acquisition laws and regulations for hardware and major weapons systems. Should we follow the same path and establish a new "Section 800 panel" that focuses on streamlining the laws and regulations pertaining to services?

A6: Because this question raises issues relating to overall Federal procurement policies, I have forwarded it to the Administrator of OFPP for consideration.

Q7: As you know OMB now requires 20 percent of services contracts to be performance based by 2002. What evaluation tools and techniques will you put in place to ensure that these performance based contracts are well written, and achieve the desired outcome?

A7: As we mentioned above, we have established an in-house team of acquisition professionals who we will train and support so that they can provide expert advice and guidance to those activities within GSA that are writing contracts for services. We will also randomly select contracts that have been coded performance based and review them and then make them available as lessons learned for future contracts.

Q8: Your statement indicated that GSA relies on the Federal Acquisition Institute for its acquisition training. How are you ensuring that the workforce is receiving the "right" training? What performance metrics are you using to evaluate the success of this training?

A8: If we said that we rely on FAI for our training then we misspoke. We rely on FAI to determine what competencies our workforce needs to develop a training curriculum which will ensure that our workforce has the appropriate skills necessary to perform the work we have assigned. We purchase the training from commercial sources who use the FAI developed curriculum. If funds are available at year's end we intend to purchase the development of a number of the 11 mandatory courses GSA requires to be formatted electronically and recognized for college credit. As noted above, the success of these efforts ultimately will be judged by the price and quality competitiveness of our contracts.

Q9: In your statement you mention that at various worksites across the country, 1102 contracting officers are not available. Is the GSA already experiencing an acquisition workforce shortage? Does GSA have any measurements of the extent to which you are facing a shortage?

A9: It is important to note that GSA's acquisition workforce by definition includes all 1102s, 1105s, COTRs and CORs and anyone regardless of career series that has been given a warrant. GSA decided years ago to decentralize its acquisition workforce throughout the organization trying to get the contracting folks closer to where the work was being done. This was a good decision. The impact of that decision though is that in some cases across GSA we did not have a requirement for a person full time with the skills of an 1102. Thus some functions of an 1102 were delegated to non-1102s through our warrant program. We have applied affirmative education requirements to those non-1102s who have a warrant.

Data extracts from the Office of Personnel Management (OPM) personnel data file are available to help us ascertain various workforce demographics and other personnel characteristics. Of course, we must evaluate any demographics and trends within the context of changes to the procurement system and advances in technology.

Q10: In your testimony you indicate that GSA does not [have] accurate data on the state of the acquisition workforce. Do you know when this information will be compiled? Isn't this type of information essential to good contract management?

A10: To augment OPM's acquisition workforce data, we have begun collecting data by hand from each of our regions. We should have a snapshot of our workforce by the end of the fiscal year. We agree that this type of information is essential to good contract management.

Q11: In your testimony, you indicate that you do not know how many contracting officers have completed 24 hours of business education. Will this data be captured in the Acquisition Career Management Information Systems (ACMIS)?

A11: The project plans for ACMIS envision capturing this information. However, as noted in my testimony, ACMIS has had some developmental problems and we will be working with OFPP and other agencies to assess next steps.

Q12: In your testimony you indicate that most GSA workforce members attend twenty hours of training a year but also state you do not have any measurements in place, how do you know this level is completed? Do you have measurements in place to determine if the training is effectively working?

A12: All the information we currently have is anecdotal and based on representations of each of the services and regions within GSA. As noted above, the success of our efforts ultimately will be judged by the price and quality competitiveness of our contracts.

Q13: In your testimony, you state that FSS has special ordering instructions to encourage performance-based contracting on orders placed against the schedules. Does FSS have measurements in place to see how extensively this mechanism is utilized?

A13: Not presently, though we expect greater agency attention will be given to this practice in FSS purchases as a result of changes planned to the FAR's coverage on the acquisition of services under schedules.

Q14: In your testimony, you state that a new data element was added to the Federal Procurement Data System (FPDS) but there is no measurable data in place yet. Will you share the data with the Subcommittee when it is ready?

A14: Yes.

Q15: In your testimony, you state, "they must understand how to develop or have the offeror develop performance metrics that will let them know whether they are obtaining the outcome they desire and finally the payment methodology in government contracting must be changed so that contractors only get paid when they deliver something of value and only get profit when they perform at or above the satisfactory level." This change as noted in many witnesses' statements here today, require a cultural change. Do you believe this is possible on a training budget of .02% of total GSA spending? I believe it is likely not enough governmentwide and I believe this Subcommittee should address this lack of funding in conjunction with the Administration.

A15: I have forwarded this question, which raises a broader government-wide issue related to performance-based contracting, to the Administrator of OFPP for consideration.

Q16: In your testimony, you state that you are setting up a knowledge management portal for best practices. Will you or have you sought commercial sector input in this site?

A16: We have already discussed the concept generally with the private sector and will be working more closely with them as we move into the next phases of development. We intend to explore whether this is a function that can be performed better by the private sector.

Q17: I understand that the Procurement Executive Council has agreed to help fund the development of the Knowledge Management Portal in FY 02, is that correct?

A17: The PEC recommended funding in the amount of $500K to support this effort in FY 02.

Q18: Do you believe that the existing guidance is sufficient to assist program managers and contracting officers in developing performance based contracts?

A18: As noted above, existing guidance was a good first step in a transition towards a performance based environment, but there is a long way to go. We have joined with a number of agencies, including OFPP, to rewrite the existing guidance for use by all federal agencies.

Q19: You did not address barriers to Horizontal Acquisition in your testimony, what barriers do you see?

A19: As noted in my testimony, the concept of horizontal acquisition in terms of today's environment has not been fully fleshed out. In light of this, and the potentially broader procurement policy ramifications associated with your question, I have forwarded this question to the Administrator of OFPP for consideration.

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