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ECONOMY IN GOVERNMENT

REPORT

OF THE

SUBCOMMITTEE ON ECONOMY IN GOVERNMENT

OF THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

TOGETHER WITH

SEPARATE VIEWS

JULY 1967

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LETTER OF TRANSMITTAL

JULY 12, 1967.

To the Members of the Joint Economic Committee:

Transmitted herewith for your consideration and use and for the use of other Members of Congress, the business and academic communities, and other interested parties, is a report, entitled "Economy in Government," prepared by the Subcommittee on Economy in Government.

The report is based upon hearings which the subcommittee held in May, continuing the work over many years of its predecessor, the Subcommittee on Federal Procurement and Regulation. As in the past few years, the concentration this year has been upon the elimination of waste in Government property activities, including procurement.

Despite the progress reported by several agencies in improving procurement practices and inventory controls, the subcommittee was disturbed to hear extensive evidence of loose management, particularly in the Department of Defense. The report describes problems which persist in procurement policies, and in inventory and real estate management, and sets forth its recommendations to correct these deficiencies. Because of the urgency of corrective measures, the subcommittee plans to hold followup hearings in the fall.

The subcommittee expresses it appreciation to Comptroller General Staats and his assistants in the General Accounting Office who have done outstanding work for the Congress and the public by investigating and reporting on many important subjects within the scope of this inquiry. The special studies and reports made for the subcommittee have made substantial contributions to economy in Government.

Sincerely,

WILLIAM PROXMIRE,
Chairman, Joint Economic Committee.

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ECONOMY IN GOVERNMENT

INTRODUCTION

On May 23, 1967, President Johnson established an Advisory Council on Cost Reduction. And on this occasion the President stated: "I have been determined from the day I took office to do everything in my power to bring about more efficient and effective Government. I expect everyone in Government to search unceasingly for better ways to do his job." (See App. 1, p. 39.)

This expression of Presidential determination and concern is similar to others made by Chief Executives in recent years.[1] [2] [3] But, in spite of repeated expressions of concern and admonition to the executive branch, there has been a serious short-fall of results in achieving the economy in the operation of Government so urgently required. Without better top management programing, and followup procedures such as those indicated in this report, and in the numerous documented surveys and reports by the Comptroller General of the United States, the overall results will continue to be inadequate.

This conclusion was all too readily apparent during the committee's 4 days of public hearings. At these hearings, which were designed as a followup to the subcommittee's studies over previous years, eight especially competent witnesses discussed the effectiveness of Federal procurement procedures. The testimony documents a disturbing record of loose management, especially in the Department of Defense. The following problem areas warrant specific mention:

Procurement Policies

(1) Despite the clearly expressed intention of the Congress, and the continual urgings of this subcommittee, it is clear that insufficient use has been made of competitive bidding, particularly in our military procurement.

(2) Moreover, the overcharges to the Government incident to excessive reliance on negotiated contract awards have been accentuated by the serious lack of compliance with the so-called Truth-in-Negotiation Act. The Comptroller General of the United States has made repeated reports on the insufficient enforcement of the provisions of this act. Yet, even though all such reports are reviewed by the Bureau of the Budget, their recommendations have gone largely unheeded.

(3) The lack of a uniform policy applicable to all executive agencies in the use of differentials under the Buy American Act permits the Department of Defense to use a 50-percent figure while the General Services Administration is limited to 6 percent.

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[1] President Dwight D. Eisenhower, see App. 2, p. 43.
[2] President John F. Kennedy, see App. 2, p. 43.
[3] President Lyndon B. Johnson, see App. 2, p. 43.

Inventory Management

The careless inventory control and management of the Government's huge inventories of stores and inventories held by contractors, now estimated at $11 billion by the General Accounting Office, is shocking. Poor inventory control is not only wasteful but it makes the achievement of an efficient national supply system impossible. Even more disturbing is the evidence that without surveillance internal management in the executive branch is such that it would not itself have revealed these deficiencies for years to come.

Real Estate Management

(1) There are inadequate safeguards to insure the proper disposal of Federal real property holdings as well as the receipts from such sales. While the Department of Defense and the General Services Administration have done creditable work in disposing of real properties, a serious problem arises from leaving the determination of excess holdings solely to the particular agency involved.

(2) In addition, there is evidence that the receipts from the sale of Government property have been used to circumvent the appropriation process.

The following section sets forth a summary of the subcommittee's recommendations to correct these present deficiencies. More detailed recommendations follow each section of the report.

SUMMARY OF RECOMMENDATIONS

Procurement Policies

(1) To achieve full compliance with the intent of the Truth-in-Negotiation Act, all contracting officers in the executive agencies should be required to secure complete, accurate, and current cost and pricing information from contractors. Contract provisions should insure that such data are made available together with the right to inspect and make postaward audits of pertinent, properly documented contractor records. The contractual right should also be established for the Government to prescribe minimum accounting standards to insure that all data relevant to the public interests are available.

(2) While emphasizing the need to improve the quality of negotiated procurement, the subcommittee continues to recommend that the formally advertised bid procedure be used to a much greater degree.

(3) The General Accounting Office should submit its recommendations to the Congress describing those conditions and circumstances under which negotiated contracts can be considered as having been awarded competitively and those which should be considered as noncompetitive awards.

(4) The subcommittee is disturbed by the continued use of inconsistent differentials under the Buy American Act. The Bureau of the Budget should immediately institute policies to reconcile the differentials employed by the Department of Defense as opposed to the civilian agencies.

Inventory Management

(1) To continue the progress that has been made in the management of short-shelf-life inventory items, the General Accounting Office and the executive agencies concerned should continue to identify short-shelf-life inventories and to develop procurement and management programs to insure their maximum use. Expansion of the program which has been developed for medical items to include other inventory articles should be considered.

(2) In order to improve the adequacy of defense inventory controls, the subcommittee supports the recommendation of the Comptroller General that the Secretary of Defense establish a group representing the military departments and the Defense Supply Agency to develop comprehensive inventory controls.

(3) Pending implementation of the preceding recommendation, the subcommittee calls upon the DSA to expedite its inventorying of all contractor-held Government-owned property, and requests other Department of Defense agencies to undertake a similar study.

(4) Furthermore, the subcommittee applauds the changes that are being made in the Armed Services Procurement Regulation, as a result of the recommendations made by the Comptroller General. These changes will improve the controls over Government-owned property in

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possession of contractors. A speedy implementation of these changes is called for.

(5) As a continuing program, the subcommittee requests the General Accounting Office to utilize its authority to prescribe and audit property accounting principles and standards by instituting a Government-wide review of the adequacy of controls over Government property.

(6) To further the development of a national supply system, the program of eliminating overlap, duplication, and waste in the supply and service systems of the Government should continue on a permanent basis.

(7) And in reference to the preceding point, the subcommittee further recommends that the program of utilizing existing stocks now owned by the Government be given a much greater degree of support than is the case at present. The interagency nature of the program requires top management surveillance for two reasons: (1) to provide the mechanics and regulations, and (2) to enforce their compliance.

Real Estate Management

(1) There is a continuing need to review the Government's real property holdings both in terms of their proper use and in terms of their continued retention. Since the present system, which gives the holding agencies sole authority to determine whether properties are excess, may not be entirely objective, the subcommittee continues to recommend that a high-level economic policy committee be assigned responsibility for reviewing agency real property holdings.

(2) The subcommittee is aware of the work being done by the President's Commission on Budget Concepts and is hopeful that the Commission will give study to and make appropriate recommendations concerning criteria for bringing agency programs, including receipts from sales, under the direct appropriation processes. With respect to the various methods of financing agency programs now used, the GAO should continue to be alert to the financial and operational effects of the use of such methods in its reviews at all levels of Government agency operations and make recommendations. The GAO is requested to provide the Congress from time to time a summary of methods of financing governmental programs other than through direct appropriations.

Need for a Management Agency

Because of the seriousness of these deficiencies in management, the subcommittee believes that, as an overall measure, consideration should be given to the establishment of a high level management agency, separate from the budget process, in order to obtain greater economy and efficiency in the executive branch.

I. PROCUREMENT POLICIES

COMPETITIVE AND NEGOTIATED PROCUREMENT

The Federal Government, through a century or more of experience, has found its interests to be best protected by making procurements through formal, written bid procedures, whenever practicable. The advertised bidding statute, Revised Statutes 3709, has evolved from this experience. (App. 3, p. 45.) The purpose of the statute has been well stated by the Comptroller General of the United States in 34 C.G. 551:

> The courts and accounting officers of the Government have frequently and consistently held that section 3709, Revised Statutes, was designed to give all persons equal right to compete for Government business, to secure to the Government the benefits which flow from competition, to prevent unjust favoritism by representatives of the Government in making purchases for public account, and to prevent collusion and fraud in procuring supplies or letting contracts.

ARMED SERVICES PROCUREMENT ACT, PUBLIC LAW 80–413

The exigencies of World War II necessitated that much of the defense procurement be conducted by negotiation under the War Powers Acts. At the end of the war, the Congress enacted the Armed Services Procurement Act of 1947 (Public Law 80–413). The intent of the Congress to revert generally to the formally advertised bid procedure is clearly expressed in the congressional reports as follows:

HOUSE REPORT 109

80th Congress, first session (H.R. 1366)

Purposes of Bill

> This bill provides uniform purchase authority for the Army and Navy, and reestablishes the requirement that the advertising-competitive bid method shall be followed by those Departments in placing the great majority of their contracts for supplies and services. This committee is of the firm belief that, as a general matter, this method gives the best assurance that (a) the Government as a purchaser will receive the best bargain available, and (b) suppliers in a position to furnish the Government's requirements will have a fair and equal opportunity to compete for a share in the Government's business.
>
> At the same time, the committee is aware that in a limited number of situations the public interest requires that purchases be made without advertising. It has examined the many exceptions to the requirement of advertising that have been authorized by

the Congress since the enactment in 1861 of Revised Statute 3709, the basic law requiring advertising. It has also thoroughly examined into the need for additional authority in this connection. As a result of this examination the committee approves the repeal of those exceptions that are no longer required, the continuation of those that are, and the addition of certain new exceptions.

SENATE REPORT 571

80th Congress, first session (H.R. 1366)

Purpose of the Bill

This bill, as amended, provides for a return to normal purchasing procedures, through the advertising-bid method on the part of the armed services, namely, the War Department, the Navy Department, and the U.S. Coast Guard. It capitalizes on the lessons learned during wartime purchasing and provides authority, in certain specific and limited categories, for the negotiation of contracts without advertising. It restates the rules governing advertising and making awards as well as fixing the types of contract that can be made.

The ensuing act, Public Law 80–413, in section 2(c) clearly stated:

> All purchases and contracts for supplies and services shall be made by advertising, as provided in section 3, except that such purchases and contracts may be negotiated by the agency head without advertising if * * * (17 exceptions are listed)

And section 3 provided:

> Whenever advertising is required—
>
> (a) The advertisement for bids shall be a sufficient time previous to the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the agency concerned.
>
> (b) All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That all bids may be rejected when the agency head determines that it is in the public interest to do so.

PRESIDENTIAL CAUTION

On signing the act, President Truman cautioned the agencies who were granted broad and flexible authority over their procurement procedures to use it wisely, and predicted that its improper use "will lead to excessive placement of contracts by negotiation and an undue reliance upon large concerns, and this must not occur." (Full text of letter in App. 3, p. 47.)

EXPERIENCE SINCE 1948

From fiscal year 1948 through fiscal 1966, the DOD procured $427,-261 million in supplies and services at home and abroad (intragov-

ernmental excluded), of which $59,152 million or 13.8 percent was by formally advertised bidding, and $368,109 million or 86.2 percent by negotiation. The exception thus became the overwhelming rule. (App. 4, p. 49.)

During this period, the 100 largest companies and their subsidiaries annually have received from 63.0 percent to 74.2 percent of the part awarded to business firms. The 10 largest concerns and their subsidiaries annually have received from 26.6 percent to 38.7 percent of the business; 50 percent of the volume in each year has been awarded to a minimum of 18 firms and a maximum of 36. (App. 5, p. 51.)

The annual concentration of contracts in a relatively few business firms and their subsidiaries is matched by the concentration by States. In fiscal years 1964, 1965, and 1966, firms in the State of California received 21.0 percent, 22.1 percent, and 18.3 percent, respectively, of the net value of military actions.[4]

By contrast, the 35 States with the lowest volume of business received 19.3 percent, or approximately that of California in fiscal 1966.[5] The following table portrays the percentage share of each State by inverse rank.

Net value of military procurement by States, by percent of total, fiscal year 1966

Inverse rank	State	Percent	Total	Inverse rank	State	Percent	Total
1	Wyoming	(1)	-------	27	Alabama	0.9	9.5
2	Idaho	(1)	-------	28	District of Columbia	1.0	10.5
3	Montana	(1)	-------	29	Kansas	1.0	11.5
4	Delaware	0.1	0.1	30	Louisiana	1.0	12.5
5	Nevada	.1	.2	31	Wisconsin	1.1	13.6
6	South Dakota	.1	.3	32	Virginia	1.3	14.9
7	Alaska	.2	.5	33	North Carolina	1.4	16.3
8	Hawaii	.2	.7	34	Washington	1.4	17.7
9	Kentucky	.2	.9	35	Minnesota	1.6	19.3
10	Maine	.2	1.1	36	Tennessee	1.6	20.9
11	Arkansas	.3	1.4	37	Florida	2.4	23.3
12	Nebraska	.3	1.7	38	Georgia	2.5	25.8
13	New Hampshire	.3	2.0	39	Maryland	2.7	28.5
14	New Mexico	.3	2.3	40	Illinois	2.9	31.4
15	North Dakota	.3	2.6	41	Michigan	2.9	34.3
16	Oregon	.3	2.9	42	Indiana	3.4	37.7
17	Vermont	.3	3.2	43	New Jersey	3.4	41.1
18	Rhode Island	.4	3.6	44	Missouri	3.5	44.6
19	Mississippi	.5	4.1	45	Massachusetts	4.2	48.8
20	Oklahoma	.5	4.6	46	Ohio	5.0	53.8
21	Utah	.5	5.1	47	Pennsylvania	5.3	59.1
22	West Virginia	.5	5.6	48	Connecticut	6.5	65.6
23	South Carolina	.6	6.2	49	Texas	7.2	72.8
24	Arizona	.8	7.0	50	New York	8.9	81.7
25	Colorado	.8	7.8	51	California	18.3	100.0
26	Iowa	.8	8.6				

[1] Less than 0.05 percent.

The statistics for the National Aeronautics and Space Administration (NASA) for the period fiscal years 1961–66 inclusive, show that advertised bidding amounted to only 3 percent of the total in 1966, with a high of 9 percent in 1961. One company has received from 18 percent to 27.6 percent of the business year by year, and 54.2 percent to 69.1 percent has gone annually to the first 10 concerns. (App. 5, p. 51).

[4] Staff materials, 1965, p. 10; 1966, p. 21; 1967, p. 38.
[5] Staff materials, 1967, p. 38.

GAO REPORTS ON OVERCHARGES

During a period of several years, the General Accounting Office has made many reports to the Congress concerning the overcharges resulting from contracts negotiated by the DOD, and the helpless position of the Government's procurement officers in negotiating with contractors who held the crucial data on cost and pricing.

It should be borne in mind that whereas formally advertised bidding is objective with the contractors competing against each other, negotiated contracting is subjective with the competition between the Government procurement officer and the companies with their technical staff, background, facilities, know-how (often obtained at Government expense), and persuasion. Since this procedure permits the exercise of choice, contracting officials are subject to influence and pressure of many kinds in making it.

On this point of negotiated contracting, Chairman Carl Vinson of the Armed Services Committee testified:

> Senator DOUGLAS. Mr. Vinson, you have had more experience with this matter than, I suppose, any man in the country over a long period of time.
>
> Do you share my feeling that this is probably one of the worst abuses which has crept into our Government, namely, the overstatement of costs, and the excessive profits made in war contracts, and the presence of such a large percentage of negotiated bids rather than competitive biddings?
>
> Mr. VINSON. I have been disturbed about it, and I had one of the staff members—the House accords my committee about $150,000 a year to build up a staff and look after these matters and this is my general counsel, Mr. Courtney; he has been with the committee for 7 or 8 years—we have made a study of the qualifications of the men who sat across the table from industry. I was dumbfounded and shocked at their lack of knowledge on what they were dealing with.
>
> If any man is going to negotiate a $50 million contract, or $100 million, to deal in big figures, and he is sitting across the table from the man who is employed by industry, he must know everything or else he is absolutely at the mercy of the mind and brain of the other man.
>
> And, unfortunately, the Government does not have people who have had that experience and that background, in a great many instances.
>
> There are instances where they do have the background. I had a check made of all these people, and I was surprised at the lack of knowledge and background. Yet they have dealt with matters involving negotiations of $50 million or more.
>
> Now, how could I sit across the table with some representative of the aircraft industry and talk about ballistic missiles and things of that nature? How could you, as brilliant and smart as you are? You would be absolutely at their mercy.[6]

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[6] Senate hearings of June 2 and 3, 1959, Finance Committee, on Renegotiation Act, pp. 99–103.

STATEMENT OF THE COMPTROLLER GENERAL OF THE UNITED STATES

In recognition of the Government contracting officer's position in protecting the public interest in negotiating contracts, the Comptroller General stated:

> "Effective negotiation requires that both Government and industry have a full understanding of all pertinent facts."

However, since the contractor, not the Government, maintains the records which contain the cost and other information deemed pertinent to effective negotiation, how can the Government obtain it for use in the negotiation process?

TRUTH IN NEGOTIATION ACT (PUBLIC LAW 87–653)

GAO Reports to the Congress

During fiscal years 1957 through 1962, the Comptroller General sent scores of reports to the Congress revealing the increased costs to the Government from the failure of contracting officials while negotiating prices to obtain *accurate*, *current*, or *complete* cost or pricing data upon which to establish fair and reasonable prices. As a result, the Government was being overcharged millions of dollars.

Some of these reports, plus oral testimony from officials of the General Accounting Office, were influential, if not prevailing, in the enactment of the Truth in Negotiation Act, Public Law 87–653, which became effective December 1, 1962.

PROVISIONS OF "TRUTH IN NEGOTIATION ACT"

In Report B–39995 to the Congress on January 16, 1967, the Comptroller General stated the purpose of Public Law 87–653:

BACKGROUND

> "During fiscal years 1957 through 1966, we submitted to the Congress 177 reports disclosing that Government costs on negotiated prime contracts and subcontracts were increased by about $130 million. The increased costs resulted primarily from the failure of contracting officials in negotiating contract prices to obtain accurate, current, or complete cost or pricing data upon which to establish fair and reasonable prices. Certain of these reports were major factors leading to the enactment of Public Law 87–653, effective December 1, 1962. This law was enacted to provide safeguards for the Government against inflated cost estimates in negotiated contracts and subcontracts, generally where competition is lacking, by requiring contracting officials to obtain from offerors cost or pricing data in support of cost estimates and a certificate that the data submitted are accurate, complete, and current.
>
> "Public Law 87–653 provides in pertinent part that a prime contractor or any subcontractor be required to submit cost or pricing data under the circumstances listed below and to certify that, to the best of his knowledge and belief, the cost or pricing data he submitted were accurate, complete, and current.

"(1) Prior to the award of any negotiated prime contract under this title where the price is expected to exceed $100,000;

"(2) Prior to the pricing of any contract change or modification for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency;

"(3) Prior to the award of a subcontract at any tier, where the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed $100,000; or

"(4) Prior to the pricing of any contract change or modification to a subcontract covered by (3) above, for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency."

"The law provides also that these contracts contain a provision for adjustment of prime contract and subcontract prices where defective data are furnished and for certain exceptions to the above requirements, as follows:

"Any prime contract or change or modification thereto under which such certificate is required shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the head of the agency that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the negotiated price as is practicable), was inaccurate, incomplete or noncurrent: *Provided*, that the requirements of this subsection need not be applied to contracts or subcontracts where the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation or, in exceptional cases where the head of the agency determines that the requirements of this subsection may be waived and states in writing his reasons for such determination."

FAILURE TO COMPLY WITH "TRUTH IN NEGOTIATION ACT"

Comptroller General Staats testified to the subcommittee that over a period of 10 years, the Government, on the basis of minimal spot-checking of contracts, had been overcharged $130 million through failure of the DOD to obtain pertinent cost and pricing data both before and after the enactment of Public Law 87–653. Half this amount has now been collected from the corporations involved. No one knows what the total projection might be.

On a review of 242 negotiated prime contracts and subcontracts awarded to 85 prime and 89 subcontractors after October 1964, or 2 years after enactment of the Truth in Negotiation Act, the Comptroller General found that there was a serious and comprehensive lack of compliance with the law:

"We found 185 of the 242 procurements examined in the first phase were awarded under requirements of the law and procure-

ment regulations for submission of cost or pricing data and certification that the data submitted was accurate, complete, and current.

"However, in 165 of these awards, we found that the agency officials and prime contractors had no records identifying the cost or pricing data submitted and certified by offerors in support of significant cost estimates.

"We also found that of the remaining 57 of the 242 procurements examined, agency and contractor records of the negotiation indicated that cost or pricing data were not obtained apparently because the prices were based on adequate price competition or on an established catalog or market price of commercial items sold in substantial quantities to the general public. But there was not a record showing the basis for the contracting officer's determination." [8]

Therefore, according to the Comptroller General's testimony, only 20 of the 185 cases tested were in full compliance of the law and the 57 cases exempted from the application of the law on the basis of adequate price competition were subject to question since records were not extant to prove the basis for the decisions to exempt them from the truth in negotiation aspects of the law.

The Comptroller General also stated that the negotiation files were not documented to show that the necessary data had in fact been made available to the contracting officer.

POSTAWARD AUDITS

It was also pointed out that the GAO had issued a report in February 1966 [9] criticizing the DOD's Defense Contract Audit Agency (DCAA) for not making postaudits to determine the amount of refunds that should be made to the Government.

Prior to the establishment of the DCAA in July 1965, the contract audit function had been vested in the separate military services. However, immediately after the issuance of the GAO report of February 1966, the DCAA initiated a postaward audit system.

There has been a division of opinion as to whether special legislation is required to give DCAA auditors access to contractor records or whether it can be accomplished administratively, by contract stipulation.

In this regard, the GSA has by regulation and contract condition adapted the provisions of the Truth in Negotiation Act, Public Law 87–653. DOD and NASA could have done likewise.

The subcommittee hearings revealed that the DOD contract procurement function is broken down into three main parts: (1) contracting by the services and DSA; (2) contract administration by the services and the Defense Contract Administration Services (DCAS); and (3) auditing by the services and DCAA.

There is some doubt as to the extent of "feedback" of information acquired by DCAS and DCAA and utilized by the contracting officials.

The DOD witnesses contend [10] that they are in substantial compliance

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[8] Hearings, 1967, pp. 62–63.
[9] B–158193, Feb. 23, 1966. See staff materials, 1967, p. 185.
[10] Hearings, 1967, p. 261.

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with the law and that judgment factors are involved in the application of the Truth in Negotiation Act in determining whether adequate competition exists and whether cost data submitted by the contractor are current, accurate, and complete. In their opinion, the DOD is adequately protecting the public interests.

The subcommittee is of the conviction that the Comptroller General has carefully documented the conclusion that the DOD has been lackadaisical in implementing Public Law 87–653 and that there has been a serious and comprehensive lack of compliance with it.

Moreover, there is lack of uniformity in the definition of "competitive" and "negotiated" procurement among the executive agencies.

The Comptroller General testified that in his judgment the DOD misrepresented the extent of its "competitive" bidding.[11] The subcommittee considers this to be the case, though the extent may not be large percentagewise. This stretching of the facts shows a recognition of the need to make a better showing in competitive bidding.

A GSA witness stated that his agency considers truly competitive bidding to mean "formally advertised" bidding.[12]

Recommendations

1. All contracting officers in the executive agencies should immediately comply fully with the intent of the Truth in Negotiation Act to protect the public interest by securing complete, accurate, and current cost and pricing information from the contractors. Contract provisions should insure that such data are made available together with the right to inspect and make postaward audits of pertinent, properly documented contractor records. The contractual right should also be established for the Government to prescribe minimum accounting standards to insure that all data pertinent to the public interests are available.

2. The GAO in consultation with the executive agencies concerned should prepare uniform reporting rules and definitions of such terms as "competitive" and "negotiated bidding."

3. The DOD should come to agreement with the GAO as to what records are to be kept by offerors and submitted to contracting officials in support of cost estimates.

4. The Secretary of Defense should establish a formalized procedure to insure that pertinent data acquired by DCAS and DCAA are fully utilized in contract negotiations.

5. Every effort should be made by the responsible agencies to postaudit the maximum number of contracts coming under the provisions of the Truth in Negotiation Act and to recoup what is due the Government under the act.

6. While emphasizing the need to improve the quality of negotiated procurement which is used so extensively and excessively, the subcommittee continues to recommend that the formally advertised bid procedure be used to a much greater degree.

The subcommittee will expect a progress report at its next hearing on the success of the component breakout program which was covered by a new regulation in 1966.[13] The purpose of this program has been to utilize competitive bidding for common type parts or components

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[11] Hearings, 1967, pp. 47, 51–52, 81.
[12] Ibid., pp. 225–226.
[13] Hearings, 1966, pp. 76–79.

used in the construction of complex end items, even though the end items are still procured through negotiation.

SPECIAL PROCUREMENT PROBLEMS

Commercial-Industrial-Type Products and Services

The subcommittee report of May 1966 stated that a review would be made of progress achieved under the BOB Circular No. A–76, dated March 3, 1966. This circular was issued in implementation of the President's memorandum of like date to the heads of departments and agencies setting forth Government Procurement Guidelines for determining whether to obtain products and services through the private sector or to provide them by the Government directly.[14]

The Bureau of the Budget is monitoring the A–76 program and advised the subcommittee:[15]

> We are now following up with the executive agencies to review the actions which they have taken since the circular became effective about a year ago * * *. We think progress has been reasonably satisfactory. For example, organizational and staffing arrangements have been completed. The inventorying of commercial and industrial type products and services * * * is proceeding and the provisions of the circular with respect to "new starts" are being implemented. Also the reviews of existing commercial and industrial type activities, required by the circular to be completed by June 30, 1968, have been started.

Witnesses from the GAO and BOB also testified that Circular A–76 is being revised to reflect certain clarifications and possibly these substantive changes:[16]

1. To include State and local taxes in costs of Government products and services.

2. To increase the differential for new starts from 10 percent to 15 percent for comparison with commercial costs.

Two additional points raised by Mr. Gainsbrugh of the National Industrial Conference Board are:[17]

> 1. In comparing Government production costs with those of private industry, how shall the cost of money be treated? On the basis of cost to the private sector or what money costs the Government when it seeks funding?
>
> 2. The inclusion of a positive statement in A–76 such as that in the previous circular 60–2: "Because the private enterprise system is basic to the American economy, the general policy establishes a presumption in favor of Government procurement from commercial sources."[18]

Recommendation

Since much of the BOB's statement on implementing the President's policy is prospective, the subcommittee will expect a more definite statement of progress at its next hearing probably in October

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[14] Report, May 1966, pp. 8–9.
[15] Hearings, 1967, p. 233.
[16] Ibid., pp. 40–41; 248.
[17] Ibid., pp. 175–176.
[18] Ibid., p. 248; see also report, July 1963, p. 52.

1967. Meantime it is expected that amendments will be made to the basic Circular A–76 to clarify and strengthen it as indicated above.

The proposal to establish a broad-based Presidential commission with representatives from business, education, Government, and labor to study and report on this important economic program has much merit.[19]

The BOB witness stated on this point:

> "I personally would like to try and struggle with Circular A–76 and see if we could, by our amendments to it, and restatement of policy along the lines that you suggested, Mr. Chairman, perhaps, or amplification of the policy, if we couldn't one way or another deal with the kind of problems that concern Mr. Gainsbrugh." [20]

Since justified and unjustified delays are often attributable to pending studies and reports, the subcommittee will review progress under Circular A–76 before recommending the establishment of a Presidential commission or considering other alternatives.

The Buy American Act (41 U.S.C. 10a–d)

For a number of years, the subcommittee has observed the lack of policy in the application of the Buy American Act by the executive agencies when making procurements.

The original act of March 3, 1933, as amended and clarified by the act of October 29, 1949:

> "[The Act] shall be regarded as requiring the purchase, for public use within the United States, of articles, materials, or supplies manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, unless the head of the department or independent establishment concerned shall determine their purchase to be inconsistent with the public interest or their cost to be unreasonable."

E.O. 10582, December 17, 1954 was intended to provide "uniform procedures for determination" under the act. Basically it provided a 6-percent differential with an additional 6 percent to "small business" or to a supplier in an area of substantial unemployment. However, Defense Secretary McNamara in 1962 adopted a policy permitting the DOD to use a 50-percent differential as a balance-of-payments measure.

While the DOD embarked on this departure from the intent of E.O. 10582, the GSA has been kept bound by its policy. Perhaps no significance would have attached to this lack of uniformity had not the management of handtools been transferred from the DOD (DSA) to GSA. (See p. 17.)

Soon thereafter, foreign bidders, principally Japanese began taking advantage of the lower (6–12 percent) protective differential available to the GSA.

The subcommittee stated in its May 1966 report: [21]

> "So an American producer gets the award on the identical items if agency A does the buying and loses it if agency B is the purchaser for the same program in the United States."

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[19] Ibid., p. 176.
[20] Ibid., p. 253.
[21] Report, May 1966, p. 10.

In answer to the specific question, "Does the Bureau of the Budget support the current practice of executive agencies applying different differentials under the Buy American Act when purchasing (*a*) the same item, or, (*b*) the same class of items?" this reply was received:

> "As a temporary measure, the Bureau of the Budget has supported the existing practice among civilian agencies and the Department of Defense. We believe the existing differences between the practices followed by the Department of Defense and the civilian agencies would be eliminated when problems of trade negotiations and balance of payments are less critical. We believe a change at this time would not be advisable but will be pleased to support appropriate actions toward a more uniform policy as soon as these problems are relieved."

During the current fiscal year 1967, more and more contracts for handtools have been awarded to foreign bidders with an increasing number of complaints from the industry and their Congressmen and Senators. (See Hearings, pt. 2, app. II, pp. 288–305.)

At the recent subcommittee hearings, the Administrator of GSA commented on the "paradox" of two different procedures in effect with respect of the differentials under the Buy American Act.[22]

In 1966, the BOB witness admitted the lack of consistency in the procedures and stated that we "have not been able to reach a conclusion as to what should be done.[23]

In 1967 he pointed out that "total nondefense U.S. Government purchases of foreign products, after application of the 6 to 12 percent Buy American Act Policy, amounted to $30 million in fiscal year 1966" and that, "we estimate current budgetary savings of $10 million on the $30 million of foreign procurement under the Buy American Act by nondefense agencies." [24] He further stated:

> "I think it is difficult to see a solution short of a solution to the balance-of-payments problem. We certainly would not want to see a movement from the 6 to 12 in the direction of the 50 in the light of the other things we are trying to achieve in the trade area and the encouragement we are trying to give foreign governments to free up their own procurement practices. Part of the consideration here, of course, is that we are, both in terms of Government procurement and in terms of our overall balance of trade, much more the beneficiary than the victim of freeing up trade practices. Whereas our foreign product Government procurement is of the magnitude of $30 million * * * foreign governments procure of us something in the magnitude of a billion dollars." [25]

The BOB continues to countenance, if not approve, two inconsistent policies whereby the DOD in an effort to better the balance-of-payments situation and reduce the gold outflow had spent, according to its report which was not confirmed by the BOB, $67.5 million through fiscal 1965 by employing the 50 percent formula. Meantime the GSA and other civilian agencies using the 6–12 percent formula undermined the DOD program to some extent but, according to the BOB, saved $10 million on $30 million of purchases from foreign

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[22] Hearings, 1967, p. 212.
[23] Hearings, 1966, p. 188.
[24] Hearings. 1967, pp. 241–243.
[25] Ibid., p. 247.

sources, thereby aiding an unbalanced budget. In this regard, the BOB was asked the following question:

"With respect to the use of differentials under the Buy American Act, is the Budget Bureau's primary concern about 'balance of payments' or 'balancing the budget' "?

And the answer was, "* * * the Bureau of the Budget's primary concern is an attempt to balance off the budgetary costs, possible savings in the balance of payments, and the U.S. objective of promoting liberal trade policies throughout the world." [26]

Recommendations

The BOB should decide on a priority course of action and establish a policy for the guidance of the executive agencies and the business community, which at present is caught in the switches. Top management has the responsibility to make decisions of this kind, though they may at times be painful.

Utility Services

The GSA, as the principal housekeeper for the Government has many important and difficult responsibilities which are made more difficult since the agency has neither departmental nor executive office status. For example, GSA in buying handtools for the DOD is denied the same "Buy American Act" differential which the DOD uses. (See p. 14.)

Among GSA's responsibilities, as set forth in its basic enabling act, the Federal Property and Administrative Services Act of 1949, Public Law 152, 81st Congress, is the following:

Sec. 201 (a) (4) With respect to transportation and other public utility services for the use of executive agencies, represent such agencies in negotiations with carriers and other public utilities and in proceedings involving carriers or other public utilities before Federal and State regulatory bodies;

The Federal Government annually procures an estimated $4 billion in utility services as follows: communications $3 billion, $500 million for power, and $500 million for gas, sewage, and steam. An estimated $4.864 billion is the obligation for transportation of materials for fiscal 1968.[27]

It is therefore important to economy in Government that the GSA have the capability and motivation to carry out its responsibility to protect the Government as a user of utility services and if necessary, to represent or have the Government represented, in rate cases before Federal and State regulatory bodies.

Senator Metcalf, who has made an intensive study of this subject testified before the subcommittee to the effect that the GSA was not staffed to carry out this task. The GSA believes otherwise.[28]

Recommendation

The BOB should investigate the adequacy of the GSA's capability and efforts in behalf of the Government as a user of utilities.

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[26] Ibid., p. 284.
[27] Hearings, 1967, p. 219; staff materials, 1967, p. 5.
[28] Hearings, 1967, p. 199, 223.

II. INVENTORY MANAGEMENT

SHORT-SHELF-LIFE ITEMS

The serious lack of control over DOD inventories of short-shelf-life items has been partially covered in previous reports.[29]

In summary, the subcommittee's hearings in 1960 and 1961 revealed that large quantities of paint, photographic, medical, and other short-shelf-life items were being generated as surplus or destroyed year after year.[30]

On May 7, 1963, the subcommittee requested that (1) the transfer of management of handtools and paint be made from DOD to GSA, and (2) that a long term plan be made for the development of a national supply system as intended by the GSA Act.[31]

In August 1963, GSA and DOD agreed to procedures for the transfer of the management of handtools and paint. GSA advised that of the inventory transferred, 5.7 percent, valued at $350,560, was unusable.[32] GSA and DSA were requested to undertaken a joint project to identify short-shelf-life items in Government inventories and to devise ways and means to reduce losses from such items in the future.

The GAO was also requested to check into the subject and report to the subcommittee by March 1965.

Both studies were excellent. The GSA–DSA study revealed that there were $703 million in short-shelf-life items.[33] More recently DSA reports a figure of $990 million for DOD only.

The GAO reported that it had found large losses and faulty inventory records when the stocks were transferred from DSA to GSA and—

> we found evidence that basically the losses were attributable to deficient supply management practices within the Department of Defense.[34]

On May 8, 1967, the Comptroller General issued a final report (B–161319) on the transfer of some $65 million worth of handtools and paint from the DOD to the GSA. About $14.6 million in paint was transferred with total writeoffs of $3.1 million, and $50.8 million transfers in handtools with writeoffs of $4.5 million.

Of particular significance to the subcommittee is the fact that DSA officials freely admit the facts as presented but state that the inventory problems it passed on to GSA were recently inherited from within the DOD.[35] Granting that this is correct, the question arises as to the general quality of the inventory controls throughout the DOD which had stores of $37 billion as of June 30, 1966.[36]

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[29] Report, 1966, pp. 7–8.
[30] Report, 1964, pp. 10–11.
[31] Report, 1963, pp. 47–48.
[32] Report, 1964, pp. 25–26.
[33] Report, 1966, p. 8.
[34] Report, 1965, p. 4.
[35] Hearings, 1967, p. 142.
[36] Ibid., p. 4.

Nevertheless, the important point now is that a detailed plan has been prepared and promulgated for the management of the short-shelf stock to reduce its losses and increase its use.[37]

SPECIAL PROGRAM FOR MANAGEMENT OF SHORT-SHELF-LIFE ITEMS

For several years the subcommittee has sought positive action to assure that medical supplies and other short-shelf-life items be put to humanitarian use while they were still usable.[38]

This year's hearings disclosed that an interagency committee composed of representatives of GSA, DOD, PHS, and VA has developed a plan to assure utilization of stockpile materials prior to expiration of their shelf life.

The plan contemplates continual rotation of the items through the use of medical stockpile materials to meet current Federal needs, and replenishment of the stockpile with newly acquired materials.

PHS reports that, with respect to the $176 million inventory, that materials valued at $9 million were utilized by VA and DOD from July 1 to December 31, 1966; materials valued at $24.6 million were destroyed between June 1964 and April 1967; and 186 items valued at $42.5 million will be subject to rotation by December 1968.[39]

Since the PHS medical stockpile of $176 million is but a fraction of the total short-shelf-life items which total about $1 billion, an expanded program for use of all the inventory must be adopted. (See "Personal Property Inventories," p. 22.)

As reported last year, a legal problem is involved with regard to short-shelf-life items, since in a technical sense they cannot be declared "excess" for redistribution so long as they are "needed," with the result that they are held until they become worthless and then destroyed. Legislation has now been introduced to permit the "excessing" of these materials for authorized use before they become obsolescent.[40]

Recommendation

The GAO and responsible executive agencies should continue to identify short-shelf-life inventories and develop procurement and management programs to insure their maximum use. The program in use for medical items may well be expanded.

As a test of the efficacy of agency systems, the subcommittee will expect information in the future from responsible agencies as to the extent of disposition by various means of short-shelf-life items.

CONTRACTOR HELD INVENTORY

During the 1965 hearings the subcommittee expressed concern over the adequacy of the controls over the billions of Government-owned property which was held and used by private contractors, and asked the GAO to make a study and report thereon. The GAO made an interim report [41] and recommended that it continue its investigation which it has done.

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[37] Hearings, 1967, p. 210.
[38] Report, 1966, pp. 7–8.
[39] Hearings, 1967, pp. 210–211.
[40] S. 1717, Proxmire, and H.R. 645, Griffiths.
[41] Report, 1966, pp. 5–6.

On May 8, 1967, the Comptroller General testified further on the subject:

Control Over Government-owned Property in the Possession of Defense Contractors

In the report of the Subcommittee on Federal Procurement and Regulation released in May 1966, it was recommended that the General Accounting Office cooperate with the Department of Defense in the development of an adequate contractor inventory accounting system, and that a thorough review be made of any misuse or unauthorized use of Government property in the hands of contractors.

We have devoted a considerable amount of time to these areas during the past year, but there is more work to be done.

PROPERTY ACCOUNTING SYSTEMS

Records of the Department of Defense indicate Government-owned facilities and material in the possession of contractors approximate a value of $11 billion located at about 5,500 plants. This does not include the value of special tooling, special test equipment, and military property as the Department does not require contractors to report the value of such property in their possession.

The Armed Services Procurement Regulation (ASPR) places responsibility on the contractor for maintaining official records of Government property in its possession under a property accounting system approved by the property administrator. The property administrator is required periodically to test the contractor's system to insure that adequate control over Government-owned property exists.

We found the approval process to be of questionable value. For example, at one location we found that the contractor's system had been approved in August 1962. Selective floor checks subsequently conducted by the Government property administrator disclosed numerous instances where commercial work was performed with industrial plant equipment for which the contractor had not requested advance approval as prescribed. Although corrective action was promised, the incidence of discrepancies rose from 7.5 percent of items tested during late 1964 and early 1965, to 13.5 percent of items tested during the first 9 months of 1966. The approved status of the contractor's system had not changed.

Many contractors did not maintain financial control accounts for Government-owned material and special tooling. For example, at one contractor's plant the Government, about 12 years ago, acquired $55 million in special tooling. The value and quantity of such tooling now on hand cannot be readily determined. The contractor indicated that, to identify Government-owned special tooling, a physical inventory would have to be taken and that such an inventory would take 20 men 1 full year to complete.

Many of the contractors we visited either were not taking periodic physical inventories or applied improper inventory procedures. For example, at one location the same contractor per-

sonnel that had custody of the material also took inventories, and in addition, maintained the stock records. We believe that appropriate segregation of the duties of personnel taking physical inventories is essential to good property control.

For the past 1½ years, relatively few audits have been made of the effectiveness of property administration at all of the contractors' plants having Government-owned property.

We have made a number of recommendations for improvement in controls over Government-owned property in possession of contractors and many revisions to the ASPR are in process to effect improvements. However, the work requested by your subcommittee has not been fully completed. We will continue to cooperate with the Department in its efforts to implement the numerous changes to property regulations which are now in process.

UTILIZATION OF GOVERNMENT-OWNED PROPERTY

We were unable to determine the usage of equipment at many contractor plants we visited because most property accounting systems did not include utilization records. However, at certain locations where limited utilization records were maintained, we questioned retention by contractors of 328 items of industrial plant equipment costing an estimated $15.9 million. We questioned retention where no use had been made of the equipment over an extended period of time, where 75 percent or more of the equipment use had been for commercial work, or where usage of the equipment was low.

None of this equipment had been reported as idle and available for relocation. Further, our examination of records at the Defense Industrial Plant Equipment Center (DIPEC) revealed that 81 of the items we questioned were in critical or short supply.

The Office of Emergency Planning in July 1957, established a requirement for contractors to request advance approval to use Government-owned machine tools on commercial work exceeding 25 percent of the total usage. This procedure was established primarily to prevent contractors from obtaining a favored competitive position. We found that, generally, contractors were not requesting such advance approval. For example, in one case an 8,000-ton press, costing $1.4 million, was installed in a contractor's plant on the basis that less efficient Government-owned 4,000-ton presses at the plant could not handle all Government orders for jet engine blades. During a subsequent 3-year period, 78 percent of the use of the large press was for commercial work, without approval of the Office of Emergency Planning having been obtained and the majority of Government blades were produced on the small presses.

We found a lack of uniformity in the rates charged for rental of Government-owned equipment. In some cases, this resulted in inequities between contractors. We also found cases where negotiated rentals were below the prescribed rates. For example, at one contractor's plant, rent applicable to a Navy standby facility is based upon 2 percent of the sales price of the products. We estimated that determination of the rent based upon prescribed

uniform rates would have increased the annual rental from $83,000 to about $194,000.

A program for replacement of Government-owned machine tools was initiated in 1965 for the purpose of maintaining such tools in a modern condition. Expenditures amounted to about $50 million in fiscal year 1966 for modernization and replacement purposes. The trend of expenditures has shown a continuous increase over prior years. While the Department of Defense policy is very restrictive as to the conditions under which new Government facilities will be furnished to contractors, the Department's program for modernization and replacement of machine tools appears to provide a means to acquire new machines for older ones under different and less restrictive criteria.

The program, as presently administered will, in our opinion, perpetuate the large Government investment in general purpose machine tools in possession of contractors, and thus defer indefinitely the time when contractors would furnish all facilities, in accordance with the Department's basic policy, for performance of Government contracts.

In the judgment of the subcommittee this is a serious indictment of the DOD's stewardship over billions of dollars worth of Government property.

QUALITY OF INVENTORY MANAGEMENT

With respect to inventory management generally in the DOD, the Comptroller General made this summary:

"Our finding indicates that increased emphasis and attention are needed at all management levels to improve the usefulness of stock records for control of inventories.

"We are suggesting to the Secretary of Defense that he establish a group, made up of representatives from the military departments and Defense Supply Agency, whose sole function would be to study inventory controls in depth. * * * We plan to continue our work, also, and in order to avoid duplication of effort, we plan to coordinate our efforts with those of any such groups designated by the Secretary of Defense."

The agencies concerned simply do not know the facts about this inventory. The Director of DSA testified that that agency is making an inventory reconciliation of contractor-held inventory for which DSA is responsible but that it is a 2 years' task.[42] Approximately 83,444 items of equipment in the hands of 1,081 contractors are involved, and there is much more DOD equipment that is not under DSA surveillance.

The Comptroller General testified to the fact that the value of special tooling, special test equipment, and so forth, is not included in the contractor's report. In fact, one contractor stated that it would take 20 people a year to identify the Government-owned property that he held.[43]

A detailed report by the GAO to the Congress on "Review of Controls Over Government-Owned Property in the Possession of Con-

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[42] Hearings, 1967, p. 139.
[43] Ibid., p. 7.

tractors" is in draft stage and should be available for the subcommittee's next hearing. Specific cases, such as equipment that is worn-out on commercial work, are to be included in the report.

Recommendations

1. A plan such as the Comptroller General suggests should be started as soon as possible especially in the DOD to insure adequate control and hence use of its inventories.
2. The DSA should expedite its inventorying of all Government-owned property in the hands of contractors.
3. All other DOD agencies should do likewise for property not under DSA cognizance.
4. Adequate and uniform rental rates should be applied to similar items when used for commercial jobs and for cost purposes.
5. As stated in last year's report [44] "A thorough review should also be made of any misuse or unauthorized use of Government property in the hands of contractors and proper settlement made as soon as possible."
6. The GAO has specific authority to prescribe and audit property, accounting principles and standards. It should vigorously institute a Government-wide program to insure adequate controls of Government property, including these points:
   a. The elimination of inactive items from the supply systems,
   b. The screening of long supply and excess assets to assure full utilization of availabile assets between the various services,
   c. The controls over the return of reparable items to the supply system for repair and reuse,
   d. The management of nonexpendable equipment issued on the basis of unit authorizations,
   e. The program to assure the effective distribution and redistribution of material, and
   f. The seemingly high ratio of gross inventory adjustments to average inventory and the causes thereof.

PERSONAL PROPERTY INVENTORY

The subcommittee has contended for several years [45] that there is a potential for much greater Government utilization of military personal property holdings which amounted to $145,180 million at June 30, 1966, of which $37,661 million was in supply systems.[46]

From this reservoir of holdings has come an average surplus disposition of $4,518 million during the past 5 fiscal years ending June 30, 1966.[47]

It is necessary that the requirements of the Federal agencies be matched against existing inventories before additional purchases are made. In so doing, the extensive computer facilities at the Defense Logistics Supply Center (DLSC) can be used.

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[44] Report, 1966, p. 6.
[45] Report, July 1963, pp. 32–33.
Report, September 1964, p. 10.
Report, July 1965, pp. 3–4.
Report, May 1966, p. 7.
[46] Staff materials, 1967, p. 22.
[47] Ibid., p. 55.

A year ago DOD witnesses, while approving the concept, indicated that more computer capacity was required to do the job.[48] During the current hearings, the Director of DSA advised:[49]

> Inter- and intra-service utilization of military service releasable assets totaled $403 million in fiscal year 1966 and $174 million through the first half of fiscal year 1967. DOD utilization of excess stocks in fiscal year 1966 amounted to $1.46 billion and $609 million through the first half of fiscal year 1967. Total DOD utilization of both releasable assets and excesses reached $783 million by the end of the first half of fiscal year 1967.

GSA also reported that 585,497 line items of excess property costing $617.1 million had been transferred for further Federal use in fiscal year 1966 despite a decrease in the volume of excess property declared to it for possible use.[50]

The Administrator of GSA also testified that "a formal agreement which will provide for cross-utilization of long-supply items stocked in both GSA and DOD systems is in final stages of coordination. Meantime, GSA and DSA have established interim arrangements to interchange information on dual-stocked items in long supply. We have effected cross-servicing on nine items so far. A GSA regulation (FPMR No. E–3) was issued on September 28, 1966, establishing a policy for utilization of long-supply items by civilian agencies. We are working with the agencies to develop detailed procedures assuring implementation of the policy."[51]

With specific reference to the subcommittee recommendation in 1965 and 1966 that "greater use be made of the Defense Logistics Supply Center (DLSC) at Battle Creek, Mich., facilities for screening Federal agency requirements against supply systems inventories," the Director of DSA under whose supervision DLSC operates stated:

> We are making some progress in using the facilities of the Defense Logistics Services Center at Battle Creek to centrally screen Federal agency requirements against DOD inventories of releasable assets. On September 28 we signed an agreement with the Federal Aviation Agency which will provide for screening both FAA requirements against DOD inventories and FAA releasable assets against DOD requirements. Agreement also has been reached with the National Aeronautics and Space Administration for an operational test and evaluation of NASA's full participation in the Defense Logistics Services Center's central mechanized screening of NASA requirements against DOD assets. Needless to say, these two agreements have not been in force long enough for their full benefits to be felt, but we are hopeful that economies will be forthcoming which will prove the advantage of the screening process for these two agencies.
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> In recognition of the potential savings inherent in a central mechanized screening of the Government's releasable assets against requirements prior to initiation of new procurement, we have embodied in the planning of a new Defense integrated data

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[48] Hearings, 1966, p. 102.
[49] Hearings. 1967, p. 137.
[50] Ibid., p. 213.
[51] Ibid., p. 209.

system, to be installed at the Defense Logistics Services Center during the fiscal year 1970–71 time frame, the capability to perform such screening for agencies outside DOD more effectively and efficiently. It should be noted, however, that the real success of centralized mechanized screening depends on more than computer capacity at the Defense Logistics Services Center. It requires civil agency completion of catalogs, mechanization of their supply procedures, and most important of all, the capability to interface with the Defense Logistics Services Center's mechanized system either through the General Services Administration or central control points in the civil agency segment of the Government. Anything short of this will produce second-rate results and the full potential of centralized screening will not be attained.[52]

It is discouraging to note that it will be fiscal 1970–71 before the new Defense integrated data system will be installed at DLSC and effective and efficient screening can be done for agencies outside DOD and that more than computer capacity is needed for the job, i.e., "it requires civil agency completion of catalogs, mechanization of their supply procedures, and most important of all, the capability to interface with the DLSC's mechanized system * * *."

The General Accounting Office continues to report examples of concurrent buying and selling of the same or substitutable items within and among the Federal agencies. This situation will not be corrected until Government requirements are matched against Government inventories. There is only one ownership involved, i.e., the Government of the United States. The holding agencies are merely the custodians of the property.

The Comptroller General testified that "We are inquiring into materiel utilization operations at the DLSC at Battle Creek, Mich., and at selected activities of the military services. Our preliminary work at these installations indicates that the potential exists for increased utilization of available assets within the Department of Defense."

The Comptroller General stated that improvements can be made in the PLUS (Procedures for Long Supply Asset Utilization Screening) program and that a Defense study of the materiel utilization program had been made in 1965 which identified a number of areas in need of improvement. And "although Defense officials have been aware of the matters discussed in the study for some time now, major improvements in the PLUS program are not apparent." [53]

The Comptroller General also advised that the GAO would continue to investigate the program.

Recommendation

The program of utilizing existing stocks now owned by the Government should be given a greater degree of enforcement than is the case at present. The interagency nature of the program requires top management surveillance (1) to provide the mechanics and regulations, and (2) to enforce their compliance.

In the meantime, the GAO is requested to continue its reports on specific examples of concurrent buying and selling and unjustified dispositions by various means as tests of the system, and to report to

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[52] Ibid., pp. 137–138.
[53] Ibid., pp. 17–19.

the subcommittee on its investigation of the PLUS program. It should also report as to any deficiencies in the civilian catalog program which inhibit the full use of DLSC in the full utilization of the Government's personal property assets.

DEVELOPMENT OF A NATIONAL SUPPLY SYSTEM

The subcommittee recommended last year, that (1) the "basic program of eliminating overlap and duplication in the numerous supply and service systems of the Government should continue agency by agency * * * and (2) the national supply system requires adequate inventory controls in order to obtain full utilization of existing stocks including short-shelf-life items." [54]

The preceding sections of this report show conclusively that adequate inventory records and controls are not available with respect to much of the Government's inventory of personal property which cost $37 billion in the DOD alone. Lacking basic inventory data as to quantity, condition, location, identification, and so forth neither an agency nor a national supply system can be achieved to the maximum efficiency.

It should be reiterated that the Federal Government has expended an estimated $400 million for a catalog system to identify and classify the millions of items in the Federal supply systems. One of the basic purposes of the catalog was to tie all agency supply systems together through common identification of items, and thus, to enhance utilization and to reduce concurrent buying and selling of the same items to the minimum.

The introduction of automatic data processing equipment has greatly increased the possibility of coordination in supply systems. The Government's annual bill for such equipment is estimated by the Administrator, GSA, at $3 billion.[55]

Some specific examples of progress in developing the national supply system are encouraging:

1. Rotation of the medical emergency stockpile as discussed above (p. 18).
2. Transfer of management of handtools and paint from DOD to GSA (p. 17).
3. GSA has assumed direct wholesale level supply support for common use items of 2,000 first-class post offices which have revenues of over $200,000 a year. There are some 220 items involved, valued at $4.2 million annually.
4. Agreement has been reached with the Veterans' Administration for transfer to GSA of all common-use items in the VA wholesale supply system except for nonperishable subsistence, medical supplies, and certain clothing and textile items. This transfer, which will be completed by July 1, 1967, involves about 1,200 items with an annual volume of $8.4 million.
5. And as stated by Administrator Knott of GSA, "Relationships between the Department of Defense and GSA with respect to the national supply system have continued at a high level during the past year. At the hearing last year we reported that DSA/FSS Material Management Review Committee had completed review of 152 Federal

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[54] Report, May 1966, p. 5.
[55] Hearings, 1967, p. 222.

supply classes managed by DSA. Since that time the following progress has been made:

"Fifty-two classes consisting of about 17,000 items will be transferred to GSA on July 1, 1967, with one additional class—paper and paperboard—to be transferred later. The remaining 99 items stay with DSA.

"Forty-seven additional classes designated for integrated management within DOD will shortly be scheduled for review.

"The Department of Defense has agreed to assume Government-wide supply support for fuel and electronics and has agreed to assume supply support to selected agencies for certain common-use items of clothing and textiles, medical, and subsistence.

"Concurrent with the extension of DSA perishable subsistence support to civilian agencies, a joint task group of military and civil hospital personnel has reviewed perishable subsistence requirements of military and civilian agency hospitals and agreed upon uniform specifications for more than 300 hospital feeding items. This standardization will significantly increase the range of items available from DSA for use by both military and civilian hospitals.

CROSS-UTILIZATION OF LONG SUPPLY

"A formal agreement which will provide for cross-utilization of long-supply items stocked in both GSA and DOD systems is in final stages of coordination. Meanwhile, GSA and DSA have established interim arrangements to interchange information on dual-stocked items in long supply. We have effected cross-servicing on nine items so far.

"A GSA regulation (FPMR No. E–3) was issued on September 28, 1966, establishing a policy for utilization of long-supply items by civilian agencies. We are working with the agencies to develop detailed procedures assuring implementation of the policy." [56]

DSA has also made notable contributions to the integrated national supply system under the DOD/GSA agreement of December 1964 (see p. 23). In addition to transferring handtool and paint items to GSA, DSA will support civil agencies in areas of fuel and electronics. Medical and nonperishable subsistence items are being reviewed to determine if DSA should manage such items for civilian agencies.

DSA, through individual interagency agreements provides a full range of DSA-managed material to the Coast Guard and the National Aeronautics and Space Administration; Veterans' Administration and Public Health Service with selected medical items; the Federal Aviation Agency with a broad range of electronics materiel and with combat-type packaged subsistence items; the Maritime Administration with selected items; the Office of Economic Opportunity with clothing and textile and subsistence items; the GSA Transportation and Communications Service with electronic supplies; and certain assistance to the Agency for International Development (AID) and the Post Office Department.[57]

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[56] Ibid., p. 209.
[57] Ibid., pp. 135–136.

Recommendation

The program of eliminating overlap, duplication, and waste in the supply and service systems of the Government should continue on a permanent basis.

The GAO, GSA, and DOD should review agency practices and develop standards as to when items of supply should be stored and issued and when they should be procured directly from suppliers.

III. REAL ESTATE MANAGEMENT

USE OF REAL PROPERTY HOLDINGS

Federal real property holdings worldwide have increased in value by $31.3 billion or 82 percent from fiscal 1955 to 1966. In millions of acres the increase has been 11.8, or 2 percent in that period.[58]

The increase in cost of real property owned by the United States in the United States from fiscal 1956 to 1966 was:[59]

Land	$265,000,000
Buildings	1,160,000,000
Structures	1,111,000,000

Despite the fact that the DOD and GSA have done some notable work in disposing of real properties, accruing proceeds thereby, augmenting the tax base or placing the property to approved public use, the subcommittee is and has been of the belief that a more vigorous program of identifying and screening excess and surplus real property should be undertaken.

The subcommittee report of May 1966 recommended:[60]

Recommendation

There is a continuing need to screen the Government's real property holdings to determine if they are being put to the best and highest use from the national point of view. Since the holding agencies may not be entirely objective in the matter and have the sole authority to make the declarations of excess, it is recommended that a high level economic policy committee be assigned the task of reviewing agency real property holdings and making recommendations to the President as to their continued retention and highest use.

The strength of the recommendation lay in the idea of a high-level economic policy committee which would review agency holdings and make recommendations to the President concerning the retention of the property. This would put the spotlight on the agency heads who have the sole authority to make excess property declarations but often fail to do so.

In lieu of adopting the subcommittee's recommendation, the Budget Bureau on April 5, 1967, issued Circular No. A–2, revised,[61] to the heads of executive departments and establishments on the subject of utilization, retention, and acquisition of Federal real property.

Deputy Budget Director Hughes explained the purposes of the new circular:[62]

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[58] Staff materials, 1967, pp. 11–12.
[59] Ibid., p. 15.
[60] Report, 1966. p. 12.
[61] Hearings, 1967. p. 234.
[62] Ibid., pp. 215, 237.

GENERAL PROVISIONS

Circular A–2, as now revised, requires Federal agencies to develop criteria to achieve effective and economical use of real property holdings consistent with program requirements. It also provides that agencies are to identify real property, or any separable unit thereof, as unneeded when—

It is not being used by the agency for program purposes, or

There are no approved current plans for future use of the property, or

Substantial net savings to the Government would result if properties used for essential purposes could be sold at their current market values and other suitable properties of substantially lower current values substituted for them, or

The costs of operation and maintenance are substantially higher than for other suitable properties of equal or less value which could be made available by transfer, permit, purchase, or lease.

RELATIONSHIP TO RELIANCE ON PRIVATE ENTERPRISE

In addition to the guidelines enumerated in Circular A–2, Circular A–76, on which I commented previously concerning the Government's general policy of relying on the private enterprise system, bears on the problem. Circular A–76 establishes guidance for agencies for reviewing industrial and commercial type activities which may result in real property becoming excess incident to discontinuance of such Government activities.

REPORTS OF EXCESS PROPERTY

Circular A–2 provides that all unneeded real property as defined in the Federal Property and Administrative Services Act is to be reported as excess to GSA or, in the case of public domain which is no longer required for the program for which withdrawn, reported to the Bureau of Land Management, Department of the Interior, or, if covered by other statutes, disposed of as provided by applicable law.

Growth of Real Property Holdings

We share the committee's concern relative to the growth of Federal real property holdings which totaled $69.4 billion as of June 30, 1966. To assure that acquisitions are kept to an absolute minimum as to area, A–2 instructs Federal agencies to acquire only those amounts of real property necessary for effective program operation.

Control of New Procurements

Also, before an agency acquires new property the agency head must make a determination that the best economic use is being made of existing holdings and, in the first instance, attempt to fulfill the need by using property under the agency's jurisdiction. If the need cannot be met by using existing agency holdings, the possibility of utilizing other satisfactory existing Federal prop-

erties must be exhausted. Procedures are provided for notifying the General Services Administration and the Bureau of Land Management, Department of the Interior, as appropriate, to ascertain if excess, surplus, or unreserved public domain lands are available which might fill the need. When existing holdings are not available for transfer, agencies then are to consider the possibility of joint use of real property held by other agencies before action can be instituted to condemn, purchase, construct, or lease.

Detailed Annual Reports Required

A major feature of the circular is that, beginning with fiscal year 1968, Federal agencies are required to submit an annual report summarizing the results of their implementation of all the provisions of the circular. This report based on annual reviews as required by the circular will indicate whether or not all properties under the custody of an agency are needed, the action which has been and is being taken to screen, report excess, or otherwise dispose of unneeded properties. It will also state the number of properties returned to the public domain. It will indicate properties made available to other agencies by permit. Copies of new and revised instructions of criteria developed and issued by the agency will also accompany the report.

EVALUATION BY BUREAU OF THE BUDGET

The Bureau of the Budget will evaluate these reports and determine the extent to which followup action is required. This new requirement will keep the Bureau currently informed of the effectiveness of agencies' reviews and will alert us to the need for any revision of policies and procedures for further improving the management of real property. We believe that the combination of the program for evaluating the need for Government operated industrial and commercial type activities, together with the new program I have just described under Circular A–2, will enable us to achieve effective and economical use of Federal real property in meeting program objectives and encourage the prompt return of real property to local tax rolls.

The subcommittee is gratified that the BOB "shares the committee's concern relative to the growth of Federal real property holdings which totaled $69.4 billion as of June 30, 1966."

It also believes that the requirement of notifying GSA or the Bureau of Land Management, as appropriate, of additional real property requirements before proceeding with more acquisitions will prove productive.

The subcommittee consistently has stressed the point made by Deputy Director Hughes that the program outlined in Circular A–2 concerning the utilization, retention, and acquisition of Federal real property, is closely related to the program announced by the President in his memorandum of March 3, 1966, and the BOB's implementing Circular A–76 on reliance of the private enterprise system as a general thing for the Government's requirements for goods and services. (See p. 13.) The discontinuance of an unwarranted commercial-industrial activity by the Government will often make excess the real property facilities associated with it.

The Naval Academy Dairy at Gambrills, Md., is a case in point. According to a detailed report from the Comptroller General of the United States,[63] this dairy, consisting of 876 acres of land and related personalty, is no longer needed for the purposes for which it was acquired in 1911. If it were not in needless competition with the dairy industry, an adequate revenue might be obtained from its sale or it might be put to a useful public purpose; Federal expenditures could be reduced, and some restoration of the tax base achieved. This action would be consistent with recent policies announced by the President.

The subcommittee, however, is not optimistic that Circular A–2 has enough teeth to do the job of generating excess real property now held by the many agencies of Government. The establishment of guidelines and the requirement of "reporting" fail to meet the exigencies of the times. The agencies need much more motivation if they are to disgorge unneeded properties.

The President's statement as indicated above upon signing Executive Order 11353 establishing an Advisory Council on Cost Reduction gives a more vigorous call to action than is expressed in Circular A–2 which predated it by 6 weeks. (App. 1, p. 39.)

Recommendations

1. The BOB should revise Circular A–2 to comply with the urgency expressed in the President's statement of May 23, 1967, and Executive Order 11353.

2. The GAO should continue to report on real property holdings that, in its judgment, should be challenged for retention under existing laws and instructions.

3. The BOB should review the Naval Academy Dairy case in the light of the President's policy statements and its own circulars.

4. It is further suggested that State and local governments that have unusual economic problems due to reduced tax base from Federal real property holdings should be enabled to present their cases to the BOB for consideration in conjunction with the reporting and evaluation system outlined in Circular A–2. The subcommittee considers that this is a program of large economic potential and intends to review its progress in future hearings.

USE OF RECEIPTS FROM SALE OF SURPLUS PROPERTIES

As previously reported, the subcommittee requested the GAO to make a study of the cost of sales of surplus property by the DOD and the disposition of the receipts.[64] The Comptroller General of the United States issued Report B–140389, dated March 18, 1966, indicating the need for improved accounting and cost control for the disposal operations in the DOD (DSA).

It is expected that the improved procedures will be made effective on July 1, 1967.[65]

This case is of special concern to the subcommittee since the DOD in 1966 used 77.2 percent of the gross proceeds of sales for the prepara-

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[63] Ibid., pp. 32, 35 (see also staff materials, 1967, p. 189).
[64] Report, 1966, p. 12.
[65] Hearings, 1967, p. 51.

tion and conduct of sales. Prior to fiscal year, the DOD was authorized to use a certain fixed amount of the proceeds of the sales, for example, in 1958 it was $41 million and in 1959, $49 million. Then blanket authorization was granted and the costs went up in 1960 to $78.4 million, in 1961 to $84.6, and in 1962 to $78.1 million, et cetera. At the same time, the percent of sales costs to gross proceeds from fiscal 1958–66 were respectively, 23, 27.5, 40.4, 50.6, 58, 75.2, 75, 72.5, and 77.2 percent.[66]

This example of flexible financing which allows an agency the open end use of receipts prompted the subcommittee to request the GAO to make a more comprehensive study on various methods of financing agency programs other than through the direct budget-appropriation process.

The comptroller General's Report B–140389 of May 8, 1967,[67] while admittedly incomplete, covers an impressive listing of programs which are financed by various kinds of methods and involve billions of dollars of expenditures annually.

The subcommittee points to the contradiction that on one hand there is a demand for Congress to reduce authorizations and appropriations and regain control of the purse strings, while on the other hand there has been a great proliferation of flexible methods of program financing.

STOCK FUNDS

One specific example of flexible financing is through "revolving funds" which the Comptroller General's report defines as follows: "revolving funds are authorized by specific provisions of law to finance a continuing cycle of operations in which expenditures generate receipts and the receipts are available for expenditure."

As of June 30, 1966, the Treasury Department showed 117 such funds with cash and fund balances of over $11 billion, investments in securities of over $2 billion, and budgetary authorizations of about $23 billion.[68]

One type of revolving funds is the so-called "stock fund" which is corporate in nature and "sells" to activities financed from other funds. Thus as was explained by Secretary of the Treasury Glass many years ago [69] the stock fund capital is multiplied by the rate of turnover. So an overcharge permits an easy augmentation of the stock fund capital. Since annual appropriations are often used to finance purchases from the stock funds, they are in effect transmuted into no-year funds which are eagerly sought by operation agencies.

Inasmuch as one agency does not "sell" to another since the title of the property is in the Government of the United States, it merely transfers custody. Profits which are often boasted about by stock fund managers are thus the result of capitalizing free stock or overcharging the users.

In previous reports the subcommittee has questioned the use of stock funds and the GAO has made special reports to the subcommittee which lead to improvements.[70]

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[66] Staff materials, 1967, p. 56.
[67] Hearings, 1967, app. VI, p. 317.
[68] Ibid., p. 322.
[69] Annual Treasury Report, 1919, p. 126.
[70] Report, 1960, p. XII. Report, 1963, p. 6. Report, 1964, p. 14.

The subcommittee has been critical of the fact that stock fund managers under the guise of businessmen have required that those who need stock, which is available and paid for, may not obtain it until they have the wherewithal to "buy" it. So even in the emergencies of Korea and recently in the Pacific, available stock has been denied to those who need it.[71]

Recommendation: The GAO as an arm of the Congress should continue its study of these areas and report from time to time its recommendations for bringing program financing under the direct appropriation process.

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[71] Hearings, 1967, pp. 82–83.

IV. AREAS FOR FURTHER STUDY

The evidence presented during the hearings has prompted the subcommittee to make a number of recommendations set forth elsewhere in this report. It became apparent also during the hearings that several subjects needed to be studied further. In response to the subcommittee's request, the Comptroller General included in his statement a priority listing of subjects which, based upon the studies already made by the GAO, deserve further investigation. Among these items the subcommittee feels that the following subjects are particularly deserving of early consideration.

1. Motion Pictures

In view of the extensive motion picture production and processing activities now being carried out by the military departments, consideration should be given to the management in this field looking to the possible consolidation of these functions wherever practicable.

2. Military Housing Construction

More information is needed with respect to the military housing construction program especially as to the quality of the housing now being obtained by the military services in relation to the costs being incurred.

3. Service-type Activities

Service-type activities of the military departments, particularly of the public works types, warrant further study as to the feasibility of having a single organization perform this service in locations where there is a heavy concentration of military installations.

4. Common Services

There is still the need for continuing examination of the progress which the Department of Defense is making in consolidating similar logistic support services such as recruiting, dental laboratories, calibration laboratories, motion picture studios, cited above, and others.

5. Private Sector vs. In-House Provision of Products and Services

Special attention should be given to the implementation by the Department of Defense of the Bureau of the Budget Circular A–76 dealing with whether products or services should be obtained through the private sector or provided by the Government agencies directly.

6. Verification of Reported Economies

The report "Savings and Economies to the Government as a Result of GSA Operations, Fiscal Years 1965 and 1966," showing substantial savings, merits further study in depth by the GAO with a view to verifying the reality of net savings and for the lessons and suggestions which it might provide, applicable to operations elsewhere in Government.

SEPARATE VIEWS OF SENATOR SYMINGTON

Although I support the view set forth by the members of the subcommittee in the Report as to the need for all Government agencies to improve their procurement policies and inventory management, I cannot agree with certain conclusions which would appear overly critical of the operations of the Department of Defense.

As example, on page 12, the Report states:

> "The subcommittee is of the conviction that the Comptroller General has carefully documented the conclusions that the DOD has been lackadaisical in implementing Public Law 87–653 (Truth-in-Negotiation) and that there has been a serious and comprehensive lack of compliance with it."

The function of the General Accounting Office is to serve as a "watchdog" over the activities of the various Government departments and agencies; and there is no agency or department of the Government that cannot benefit in major fashion from its recommendations.

It is our understanding that a number of measures recommended by GAO have either been adopted, or are being implemented. In any case, at the time of the hearings the Defense Department had not had an opportunity to review the latest report issued by GAO; and in fairness to the Department of Defense, I believe their responsible officials should have been given an opportunity to comment on the findings contained in this report prior to publication of the Joint Economic Subcommittee report.

From testimony presented, it is evident that steps should be taken to further implement the Truth-in-Negotiation Act; also that efforts should be made to increase the number of competitive contracts.

In considering the establishment of additional checks on competitive bidding and the post auditing of relatively small contracts, however, it is important to bear in mind Secretary Ignatius' caution "that we not spend money beyond the benefit that is attained from it."

On Page 4, the subcommittee Report makes the following recommendation.

> "Because of the seriousness of these deficiencies in management, the subcommittee believes that, as an overall measure, consideration should be given to the establishment of a high level management agency, separate from the budget process, in order to obtain greater economy and efficiency in the executive branch."

I do not agree with that recommendation. The operation of such a proposed "high level management agency" is not spelled out.

Nor can I support the recommendation for establishment of any such additional agency separate from the Bureau of the Budget. Rather than establishing any new agency, all of us should work towards better management of the present agencies.

APPENDIX 1

Statement by the President Upon Signing Executive Order to Establish Advisory Council on Cost Reduction, May 23, 1967

President Johnson today released the following statement in connection with the signing of an Executive order establishing the President's Advisory Council on Cost Reduction:

Today, I am signing an Executive order creating a Council on Cost Reduction in Government.

I am requesting this Council to review the Government cost reduction efforts to date.

I am asking them to explore further opportunities for economy and better management.

In pursuing this vital task, I want them to enlist the aid of leaders in business and labor.

I shall expect the Council to keep me up to date on its progress, and to make a full report to me within 12 months.

Two years ago, at my direction, a Government-wide cost reduction program was initiated. At that time I called upon the head of each agency to take personal charge of cost reduction efforts, set specific goals for reductions in cost, reassess priorities for all programs and operations, identify and remove roadblocks to economy, and verify reported savings.

The savings achieved under the program so far are truly significant.

—The Defense Department saved $4.5 billion in fiscal 1966 as a result of actions taken over the past several years.

—Nondefense agencies saved $1.2 billion from steps taken in fiscal 1966, and nearly a billion dollars in the first half of fiscal 1967 alone.

This is an impressive record. These savings helped us to meet our commitments abroad and to finance essential programs at home. But we are not content with our past progress.

I have been determined from the day I took office to do everything in my power to bring about more efficient and effective Government. I expect everyone in Government to search unceasingly for better ways to do his job.

In my message to Congress last March on "The Quality of American Government," I said:

"To broaden and strengthen the Federal Government's drive for economy and efficiency in all its operations, I will issue an Executive Order establishing an Advisory Council on Cost Reduction."

My purpose in taking this step now is to bring together in a more organized manner the know-how developed in various areas of the Government and private life. By concentrating our insights, we can bring renewed impetus to this program and benefit every American taxpayer.

The Director of the Bureau of the Budget will be Chairman of the Council. Sitting with him will be the Secretary of Defense, the Chairman of the Civil Service Commission, and the Administrator of General Services.

I shall later appoint to the Council other members from the Government, as well as representatives of industry and the public.

NOTE: For the text of Executive Order 11353, see the following item.

PRESIDENT'S ADVISORY COUNCIL ON COST REDUCTION

EXECUTIVE ORDER 11353

May 23, 1967

Establishing the President's Advisory Council on Cost Reduction

WHEREAS the economical management of the executive branch is a vital and continuing responsibility of the President; and

WHEREAS it is essential that the resources devoted to the fulfillment of our international responsibilities and the needs of our citizens be utilized in as effective and prudent a manner as possible; and

WHEREAS economies achieved in any governmental program permit more effective meeting of these urgent national needs; and

WHEREAS the best cost reduction practices and techniques developed by individual Government agencies and by business and industry should be utilized in all Government agencies whenever applicable; and

WHEREAS there is a need for review and advice to the President on the progress of the Government's cost reduction program:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of the Council.* (a) There is hereby established the President's Adivsory Council on Cost Reduction (hereinafter referred to as the Council).

(b) The Council shall consist of the following:

(1) The Director of the Bureau of the Budget, who shall be the Chairman of the Council,

(2) The Secretary of Defense, the Chairman of the United States Civil Service Commission, and the Administrator of General Services,

(3) Such other heads of executive departments and agencies, and such other officers or employees of the Federal Government, as the President may designate, and

(4) Such other members as the President may appoint from the public at large.

(c) Federal members of the Council shall receive no additional compensation for such service. Members appointed from private life shall receive compensation for each day engaged on business of the Council and travel expenses, including per diem in lieu of subsistence, as authorized by sections 3109 and 5703 of Title 5 of the United States Code for persons in the Government service employed intermittently.

SEC. 2. *Functions of the Council.* The Council shall:

(1) Review and evaluate the nature and adequacy of the Government cost reduction efforts and advise the President on means to strengthen and improve them.

(2) Explore with responsible operating officials throughout the executive branch opportunities for cost reduction and appropriate actions to achieve them.

(3) Consult with leaders in business, industry and research to draw on their experience in achieving cost reductions and to invite their suggestions.

(4) Identify outstanding cost reduction programs, practices, and techniques developed in Government agencies and in business and industry susceptible to wider use in Government.

(5) Submit a final report to the President containing an evaluation of the Government-wide cost reduction program and appropriate recommendations for enhancing its effectiveness no later than 12 months after the effective date of this order, and make interim reports which it deems advisable.

SEC. 3. *Federal agencies.* (a) Upon request of the Chairman each executive department and agency shall, consistent with law, furnish the Council available information which the Council may require in performance of its functions.

(b) Each executive department and agency represented on the Council shall furnish such necessary assistance to the Council as may be authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

APPENDIX 2

PRESIDENTIAL STATEMENTS ON ECONOMY IN GOVERNMENT

President Eisenhower

"This administration will continue to exercise the utmost care in the manner in which it uses the taxpayers' money" (*The Federal Budget in Brief*, remarks by President Dwight D. Eisenhower on Jan. 17, 1955).

"We will continue to give the taxpayer greater and greater value for each dollar spent" (*The Federal Budget in Brief*, remarks by President Dwight D. Eisenhower on Jan. 17, 1956).

"The first step is to avoid a budget deficit by having the Government live within its means, especially during prosperous, peacetime periods" (*The Federal Budget in Brief*, remarks by President Dwight D. Eisenhower on Jan. 19, 1959).

"Over the past 8 years, we have sought to keep the role of the Federal Government within its proper sphere, resisting the ever-present pressures to initiate or expand activities which would be more appropriately carried out by others." (*The Federal Budget in Brief*, remarks by President Dwight D. Eisenhower on Jan. 19, 1961).

"We can afford everything we clearly need, but we cannot afford 1 cent of waste. We must examine every item of governmental expense critically. To do otherwise would betray our Nation's future" (President Eisenhower's state of the Union message on Jan. 9, 1959).

President Kennedy

"If the Government is to retain the confidence of the people, it must not spend more than can be justified on grounds of national need or spent with maximum efficiency" (address to the American Banker's Association, Washington, D.C., Feb. 25, 1963, by President John F. Kennedy).

"The search for greater efficiency is a never-ending one" (*The Federal Budget in Brief*, remarks by President John F. Kennedy on Jan. 17, 1963).

"Secretary McNamara is undertaking a cost reduction program expected to save at least $3 billion a year in the Department of Defense, cutting down on duplication, and closing down nonessential installations. Other agencies must do the same."

And "* * * no budget will be submitted by this administration which does not continue a persistent and suprisingly unpopular program of cutting costs, increasing efficiency, and weeding out obsolete activities" (address to the Economic Club of New York, delivered by President John F. Kennedy on Dec. 14, 1962).

President Johnson

"It [the attached report] gives me confidence that my pledge to get a dollar's worth of value from every dollar spent can be fulfilled" (remarks by President Johnson, delivered on July 17, 1964, in his transmitting to Members of Congress a report of Secretary McNamara on the DOD cost reduction program).

"* * * when vigorous pruning of old programs and procedures releases the funds to meet new challenges and opportunities, economy becomes the companion of progress * * *" (budget message of the President, delivered Jan. 24, 1964, by President Lyndon B. Johnson).

"The urgent and necessary program increases recommended in this budget will be financed out of the savings made possible by strict economy measures by an exhaustive screening of existing programs."

"As substantial as are savings due to tightening up on Federal employment, even larger economies result from actions which eliminate waste and duplication,

simplify unnecessarily complex systems and procedures, and introduce new and better business methods." Ibid.

"When the search for economy is compromised, the taxpayer is the loser." Ibid.

"Advance efficient and economical administration in the Government so that each tax dollar will be a dollar well spent." Ibid.

"Wherever waste is found, I will eliminate it" (budget message of the President, delivered Jan. 25, 1965, by President Lyndon B. Johnson).

"The Great Society must be an efficient society. Less-urgent programs must give way to make room for higher priority needs. And each program, old and new, must be conducted with maximum efficiency, economy, and productivity.

"We cannot substitute last year's achievements for next year's goals; nor can we meet next year's challenge with last year's budget." Ibid.

"We have neither the resources nor the right to saddle our people with unproductive and inefficient Government organization, services, or practices.

"We must reorganize and modernize the structure of the executive branch in order to focus responsibilities and increase efficiency." Ibid.

"I am counting heavily on the continuation and acceleration of cost reduction and management improvement efforts. * * * Among other things, we must: Continue our war on excessive paperwork * * * seek legislation that will remove legal barriers to efficient operation." Ibid.

"The Federal Government must do its part. * * * [which] means cutting back or eliminating activities which are less urgent or no longer necessary.

"Effective management of Government activities enhances the benefits of those programs.

"In recent years, the American economy has performed superbly." Ibid.

"We will continue to offset a significant part of increased costs of important new programs by increasing efficiency throughout the Federal Government. * * * I have made it clear to the heads of all departments and agencies that they are to continue their emphasis on cost reduction in the coming year" (budget message of the President, delivered Jan. 24, 1967, by President Lyndon B. Johnson).

APPENDIX 3

POLICY STATEMENTS ON COMPETITIVE PROCUREMENT

U.S. GENERAL ACCOUNTING OFFICE,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., January 14, 1960.

Memorandum.

Subject: Legislative history and purposes of the advertising requirement of section 3709 of the Revised Statutes.

Section 3709 of the Revised Statutes first appeared as a part of the act which revised and consolidated the statutes of the United States in force on December 1, 1873, and provided as follows:

"SEC. 3709. All purchases and contracts for supplies or services, in any of the Departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged, between individuals."

Section 3709 is one of the derivative sources of the present codification which appears at 41 U.S.C. 5.

The above-quoted language is reportedly derived in part from section 10 of the act of March 2, 1861 (12 Stat. 220). While this is technically correct, derivative language appeared in prior acts and some mention of the historical development of this language is considered important.

The debate on H.R. 895 of the 2d session of the 36th Congress, which became the act of March 2, 1861, contains information that is pertinent to the development of this language. Congressman Davis of Maryland, one of the House conferees to the joint conference which considered disagreements between the Senate and House on H.R. 895, submitted a report which contained the following language:

"That the House recede from their disagreement to the Senate's forty-first amendment, and agree to the same with the following amendment: Strike out all of said amendment after the word 'enacted,' and insert the following: 'That all purchases and contracts for supplies or services in any of the departments of the Government, except for personal services, when the public exigencies do not require the immediate delivery of the article or articles, or performance of the service, shall be made by advertising a sufficient time previously, for proposals respecting the same. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places, and in

the manner in which such articles are usually bought and sold, or such services engaged between individuals. * * *"

In explaining this language Congressman Davis stated:

"The last point upon which the committee agreed upon the 41st amendment arises from these circumstances: A law was passed at the last session providing that certain purchases required to be made for the public service, should, unless the exigencies of the public service required otherwise, be made upon publication. That same amendment went on to prohibit the United States from purchasing patented articles. An attempt was made in the Senate to repeal the latter portion, but by accident the repeal applied to the former portion of the act. In order to make the matter plain, we insert, in lieu of the 41st amendment in this bill, the portion of the section which by accident was repealed, and repeal the latter part of the law of 1860, which by accident was not repealed." (Congressional Globe, 2d sess., 36th Cong. (1860–61), pt. 2, p. 1421.)

The law that Mr. Davis referred to in his remarks was the act of June 23, 1860. Section 3 of that act, which is found at 12 Stat. 103, 104, provided in part:

"SEC. 3. *And be it further enacted*, That all purchases and contracts for supplies or services in any of the departments of the government, except for personal services, when the public exigencies do not require the immediate delivery of the article or articles, or performance of the service, shall be made by advertising, a sufficient time previously, for proposals respecting the same. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought and sold, or such services engaged between individuals. * * *"

The act of June 23, 1860, originated as H.R. 339 of the 1st session of the 36th Congress, and the particular language of section 3 found its way into H.R. 339 by way of an amendment introduced by Senator Jefferson Davis of Mississippi.

In explaining his amendment Senator Davis stated:

"That is supplemental to existing legislation, and I think it will perfect the restrictions now imposed upon contracts made for public supplies. * * *" (Congressional Globe, 1st sess., 36th Cong. (1859–60), pt. 4, p. 2933.)

An example of the "existing legislation" that Senator Davis had in mind when he introduced his amendment is found in the act of March 3, 1843 (5 Stat. 617). This act provided in part that all provisions, clothing, hemp, and other materials for the use of the Navy should be furnished by contracts awarded to the lowest bidder after advertising for and receipt of sealed proposals.

Except for the actual language of section 3709 of the Revised Statutes, all of the language quoted above is taken from appropriation acts or debates on appropriation acts. The available legislative histories pertaining to appropriation acts for the period involved are limited and, unfortunately, are the only sources available for an explanation of the reasons behind the language found in section 3709. However, the following quotation from B–123491, April 27, 1955 (34 Comp. Gen. 551) is indicative of the consistent reasoning of the General Accounting Office as to the purpose of section 3709.

"The courts and accounting officers of the Government have frequently and consistently held that section 3709, Revised Statutes, was designed to give all persons equal right to compete for Government business, to secure to the Government the benefits which flow from competition, to prevent unjust favoritism by representatives of the Government in making purchases for public account, and to prevent collusion and fraud in procuring supplies or letting contracts."

THE WHITE HOUSE,
Washington, February 19, 1948.

Hon. JEROME C. HUNSAKER,
Chairman, National Advisory Committee for Aeronautics,
Washington, D.C.

MY DEAR MR. HUNSAKER: I have today signed H.R. 1366 which has been passed by the Congress to facilitate procurement of supplies and services by the Departments of the Army, the Navy, and the Air Force, the Coast Guard, and the National Advisory Committee for Aeronautics, and for other purposes.

H.R. 1366 replaces a series of intricate and sometimes conflicting regulations which have impaired the efficient operations of procurement officers in the military agencies, the Coast Guard and the National Advisory Committee for Aeronautics. I know that under your administration the new act will make possible more efficient and systematic procurement.

The act states the basic policies of the Government with respect to procurement by the armed services. It declares that a fair proportion of all procurement shall be placed with small business concerns. It also states that all purchases and contracts for supplies and services shall be made by advertising, except under circumstances specified in the act where exceptions to this general policy may be made.

This bill grants unprecedented freedom from specific procurement restrictions during peacetime. That freedom is given to permit the flexibility and latitude needed in present-day national defense activities. The basic need, however, remains to assure favorable price and adequate service to the Government. To the degree that restrictions have been diminished, therefore, responsibility upon the Defense Establishment has been increased. There is danger that the natural desire for flexibility and speed in procurement will lead to excessive placement of contracts by negotiation and undue reliance upon large concerns, and this must not occur.

For these reasons, I am asking you to specify detailed standards to guide your procurement officers concerning the placing of business with small concerns and the circumstances under which they may waive the general policy of advertising for bids. It is of great importance in procurement matters to establish standards and definitions to guide all personnel who have authority to place contracts. Otherwise, differences in interpretation and policies may result in imprudent contracts and give rise to doubts about the wisdom of this new procurement system.

As soon as practicable, I would appreciate a report from you concerning your general plants for implementing this act. I am also

asking you to report annually, as of the end of each fiscal year, the total value of contracts negotiated under the individual paragraphs of section 2(c), and the total value of contracts placed with small business concerns during the year.

Sincerely yours,

HARRY TRUMAN.

Identical letter sent to: Secretary of Army, Secretary of Navy, Secretary of Air Force, and the Coast Guard.

APPENDIX 4

Value of formally advertised and negotiated contracts, fiscal years 1948–66
(Total except intergovernmental, formally advertised and other awards)

[Dollar amounts in millions]

Fiscal year	Total	Formally advertised		Negotiated	
		Amount	Percent	Amount	Percent
1948	$1,456	$196	13.5	$1,260	86.5
1949	5,463	1,626	29.8	3,837	70.2
1950	5,355	1,461	27.3	3,894	72.7
1951	30,823	3,720	12.1	27,103	87.9
1952	41,482	4,479	10.8	37,003	89.2
1953	27,822	3,089	11.1	24,733	88.9
1954	12,859	1,822	14.2	11,037	85.8
1955	16,041	2,401	15.0	13,640	85.0
1956	19,156	2,902	15.1	16,254	84.9
1957	20,996	3,423	16.3	17,573	83.7
1958	23,666	3,282	13.9	20,384	86.1
1959	24,554	3,256	13.3	21,298	86.7
1960	22,908	3,170	13.8	19,738	86.2
1961	24,703	2,932	11.9	21,771	88.1
1962	28,098	3,544	12.6	24,554	87.4
1963	29,032	3,678	12.7	25,354	87.3
1964	28,234	4,071	14.4	24,163	85.6
1965	27,385	4,817	17.6	22,568	82.4
1966	37,228	5,283	14.2	31,945	85.8
Total	427,261	59,152	13.8	368,109	86.2

APPENDIX 5

NET VALUE OF PRIME AWARDS TO FIRST 100 COMPANIES

MILITARY

Fiscal year	Total awards (millions of dollars)	Percent of U.S. total	Percent of total to 1st 10 companies	50 percent of total awarded to 1st	Total, 100 companies and their subsidiaries (millions of dollars)
1951–56	140.4	63.0	31.5	34	88.4
1957	18.9	68.4	33.0	26	13.0
1958	21.8	74.2	38.7	18	16.2
1959	22.6	73.8	37.0	20	16.7
1960	21.0	73.4	36.1	21	15.4
1961	22.7	74.2	36.6	21	16.8
1962	25.6	72.3	33.6	24	18.5
1963	25.8	73.9	34.1	23	19.1
1964	25.2	73.4	35.8	22	18.5
1965	24.2	68.9	32.2	28	16.7
1966	33.5	63.8	26.6	36	21.4

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Fiscal year	Total awards (in thousands)	Total No. 1 [1] (in thousands)	Percent	Percent to 1st 10	Percent advertised	Percent negotiated
1961	$423,294	$75,009	18.0	56.0	9	91
1962	1,053,644	199,109	18.9	54.2	6	94
1963	2,261,600	525,806	23.2	63.7	5	95
1964	3,521,095	917,244	26.0	68.2	4	96
1965	4,141,434	1,099,448	26.6	66.2	4	96
1966	4,087,679	1,128,928	27.6	69.1	3	97

[1] North American Aviation, Inc., each year.

APPENDIX 6

REFERENCES TO SUBCOMMITTEE REPORTS, HEARINGS, AND STAFF STUDIES

Report, October 1960: "Economic Aspects of Military Procurement and Supply," report of the Subcommittee on Defense Procurement to the Joint Economic Committee, Congress of the United States, 86th Congress, second sess. (Hereinafter called "Report, October 1960.")

Report, July 1963: "Impact of Military Supply and Service Activities on the Economy," report of the Subcommittee on Defense Procurement to the Joint Economic Committee, Congress of the United States, 88th Congress, first sess., July 1963. (Hereinafter called "Report, July 1963.")

Report, September 1964: "Economic Impact of Federal Supply and Service Activities," report of the Subcommittee on Defense Procurement to the Joint Economic Committee, Congress of the United States, 88th Congress, second sess. (Hereinafter called "Report, September 1964.")

Report, July 1965: "Economic Impact of Federal Procurement," report of the Subcommittee on Federal Procurement and Regulation of the Joint Economic Committee, Congress of the United States, 89th Congress, first sess. (Hereinafter called "Report, July 1965.")

Report, May 1966: "Economic Impact of Federal Procurement—1966," report of the Subcommittee on Federal Procurement and Regulation of the Joint Economic Committee, Congress of the United States, 89th Congress, second sess. (Hereinafter called "Report, May 1966.")

Hearings, 1960: "Impact of Defense Procurement," hearings before the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 86th Congress, second session, January 28, 29, and 30, 1960. (Hereinafter called "Hearings, 1960.")

Hearings, 1961: "Progress Made by the Department of Defense in Reducing the Impact of Military Procurement on the Economy," hearings before the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 87th Congress, first session, June 12, 1961. (Hereinafter called "Hearings, 1961.")

Hearings, 1963: "Impact of Military Supply and Service Activities on the Economy" hearings before the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 88th Congress, first session, March 28, 29, and April 1, 1963. (Hereinafter called "Hearings, 1963.")

Hearings, 1964: "Impact of Military and Related Civilian Supply and Service Activities on the Economy," hearings before the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 88th Congress, second session, April 16 and 21, 1964. (Hereinafter called "Hearings, 1964.")

Hearings, 1965: "Economic Impact of Federal Procurement," hearings before the Subcommittee on Federal Procurement and Regulation of the Joint Economic Committee, Congress of the United States, 89th Congress, first session, April 27, 28 and 29, 1965. (Hereinafter called "Hearings, 1965.")

Hearings, 1966: "Economic Impact of Federal Procurement," hearings before the Subcommittee on Federal Procurement and Regulation of the Joint Economic Committee, Congress of the United States, 89th Congress, second session, January 24, and March 23 and 24, 1966. (Hereinafter called, "Hearings, 1966,")

Hearings, 1967: "Economy in Government," hearings before the Joint Economic Committee, Congress of the United States, 90th Congress, first session, May 8, 9, 10 and 16, 1967, parts 1 and 2.

Staff study, 1960: "Background Material on Economic Aspects of Military Procurement and Supply," materials prepared for the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 86th Congress, second session, February 1960. (Hereinafter called "Staff Materials, 1960.")

Staff study, 1963: "Background Material on Economic Aspects of Military Procurement and Supply," materials prepared for the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 88th Congress, first session, March 1963. (Hereinafter called "Staff Materials, 1963.")

Staff study, 1964: "Background Material on Economic Aspects of Military Procurement and Supply—1964," materials prepared for the Subcommittee on Defense Procurement of the Joint Economic Committee, Congress of the United States, 88th Congress, second session, April 1964. (Hereinafter called "Staff Materials, 1964.")

Staff study, 1965: "Background Materials on Economic Impact of Federal Procurement," prepared for the Subcommittee on Federal Procurement and Regulation of the Joint Economic Committee, Congress of the United States, 89th Congress, first session, April 1965. (Hereinafter called "Staff Materials, 1965.")

Staff study, 1966: "Background Material on Economic Impact of Federal Procurement—1966," materials prepared for the Subcommittee on Federal Procurement and Regulation of the Joint Economic Committee, Congress of the United States, 89th Congress, second session, March 1966. (Hereinafter called "Staff Materials, 1966.")

Staff study, 1967: "Background Material on Economy in Government—1967," materials prepared for the Subcommittee on Economy in Government of the Joint Economic Committee, Congress of the United States, 90th Congress, first session, April 1967. (Hereinafter called, "Staff Materials, 1967.")

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