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REPORT TO THE
PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS
COMMITTEE ON
GOVERNMENT OPERATIONS
UNITED STATES SENATE

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Proposals For Improving Practices
Of The Department Of Transportation
For Obtaining Cost Or Pricing Data
Used In Negotiating Contracts B-170398

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

~~701367~~ 096199

JAN. 5, 1973



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-170398

Dear Mr. Chairman:

Because of your interest in the procurement activities of the Department of Transportation, we are furnishing to you this report.

In accordance with the provisions of section 236 of the Legislative Reorganization Act of 1970, copies of this report are being sent to the appropriate congressional committees. Copies of this report are also being sent to the Director, Office of Management and Budget, and to the Secretary of Transportation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James B. Argets".

Comptroller General
of the United States

The Honorable John L. McClellan
Chairman, Permanent Subcommittee
on Investigations
Committee on Government Operations
United States Senate

0-11504

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ABBREVIATIONS

FPR	Federal Procurement Regulations
FRA	Federal Railroad Administration
GAO	General Accounting Office

COMPTROLLER GENERAL'S REPORT
TO THE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS
COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES SENATE

PROPOSALS FOR IMPROVING PRACTICES
OF THE DEPARTMENT OF TRANSPORTATION
FOR OBTAINING COST OR PRICING DATA
USED IN NEGOTIATING CONTRACTS
B-170398

D I G E S T

WHY THE REVIEW WAS MADE

In fiscal year 1971 the Department of Transportation negotiated non-competitive, fixed-price contracts and contract modifications totaling about \$110 million, subject to cost or pricing data requirements of the Federal Procurement Regulations. (See p. 5.)

Because of the substantial amount involved, the General Accounting Office (GAO) reviewed the Department's procedures and practices for obtaining certified cost or pricing data.

Background

The Truth-in-Negotiations Act was enacted because prices of negotiated contracts often were higher than indicated by cost or pricing data available to contractors during negotiations. (See p. 3.)

Factors contributing to overpricing included inaccurate, incomplete, and noncurrent data upon which to negotiate fair and reasonable contract prices. The act applies to military procurements, but its provisions have been incorporated in the Federal Procurement Regulations that apply to civilian procurements.

Regulations provide that civilian agencies require the prospective contractor to either submit or specifically identify, in writing, cost or pricing data supporting any proposal for a noncompetitive contract

or contract modification expected to exceed \$100,000. (See p. 3.) In addition, the prospective contractor must certify, on the certificate of current cost or pricing data, to the correctness of such data. (See p. 4.)

Contracting officials are required to include in each contract a clause giving the Government the right to reduce the contract price to exclude any significant sums by which the price increased because the certified cost or pricing data was inaccurate, incomplete, or noncurrent. (See p. 4.)

FINDINGS AND CONCLUSIONS

GAO reviewed 42 contracts and contract modifications negotiated during fiscal year 1971 and totaling \$74 million. In each case procurement officials had not obtained complete cost or pricing data, or specific identification of such data, to support negotiated prices. (See p. 7.)

Procurement officials should obtain substantially complete data so that they may establish well-formulated price negotiation positions and may obtain adequate safeguards against inflated cost estimates. (See p. 6.)

Without a complete and authoritative record of data used by a contractor to price its proposal, the

certificate of current cost or pricing data and the defective-pricing-data clause may well be ineffective. Lack of records might make it impracticable for the Government to establish that data used by the contractor to develop its cost estimates was, in fact, inaccurate, incomplete, or noncurrent. (See p. 6.) For the 42 contracts and contract modifications GAO reviewed, the required certificates of current cost or pricing data were not obtained for 15 of them and the required defective-pricing-data clauses were not included in seven contracts. (See pp. 12 and 13.)

If certificates are not obtained or if defective-pricing-data clauses are not included in contracts, the Government's right to price reductions for submission of defective cost or pricing data may be impaired. (See p. 13.)

Cost or pricing data had not been obtained by procurement officials because they usually did not request contractors to submit or specifically identify cost or pricing data in writing. Instead, they relied on Government auditors and technical representatives to obtain and verify such data. Furthermore, they did not exercise reasonable care to insure that all the required certificates were obtained and that the defective-pricing-data clauses were included in the contracts. (See p. 15.)

RECOMMENDATIONS

The Secretary of Transportation should:

- Insure that procurement officials are fully aware of the benefits of using certified cost or pricing data for negotiating noncompetitive contract prices.
- Require procurement officials to obtain certified cost or pricing data in the detail called for by the regulations.
- Require procurement officials to keep the certified data, along with the contractor's certificate of current cost or pricing data, in the records of negotiation. (See p. 17.)

AGENCY ACTIONS

The Department said that its contracting officers had obtained substantially complete cost or pricing data for a large number of the contracts which GAO reviewed. Nevertheless the Department advised GAO of actions it was taking to improve its practices and procedures for obtaining and using current cost or pricing data. These actions should improve contract administration. (See p. 18.)

CHAPTER 1

INTRODUCTION

The Truth-in-Negotiations Act (10 U.S.C. 2306(f)) was enacted in 1962 because prices of negotiated contracts often were higher than indicated by cost or pricing data available to the contractors during negotiations. Factors contributing to the overpricing included inaccurate, incomplete, and noncurrent cost or pricing data upon which to negotiate fair and reasonable prices. The Truth-in-Negotiations Act applies to military procurements, but its provisions have been incorporated in the Federal Procurement Regulations (FPR) that apply to civilian procurements.

GAO concentrated its prior reviews regarding cost or pricing data primarily in the military departments because of the magnitude of their procurement activities. The procurement activities of civilian departments, however, have been increasing in recent years and are expected to continue to do so. Thus it is becoming increasingly important for civilian departments to negotiate contracts in compliance with procurement regulations which have enhanced economical purchasing for the Government.

FPR specifies that, subject to specific exceptions, the contracting officer require the prospective contractor to submit accurate, complete, and current cost or pricing data to the contracting officer or his representative prior to the award of any negotiated, noncompetitive contract or contract modification expected to exceed \$100,000. If submission of the data is impracticable, the contractor must identify, in writing, the specific data not submitted.

To have an adequate negotiating position and to insure that it has obtained adequate safeguards against inflated cost estimates, the Government procuring agency should obtain all the significant cost or pricing data supporting the prospective contractor's proposal or written identification of the specific data not submitted. With this data, both the Government and the prospective contractor can start from a common base in estimating the costs of contract performance. Cost or pricing data is defined in FPR 1-1-3.807-3 as follows:

"(h)(1) 'Cost or pricing data' as used in this subpart 1-3.8 consists of all facts existing up to the time of agreement on price which prudent buyers and sellers would reasonably expect to have a significant effect on the price negotiations. The definition of cost or pricing data embraces more than historical accounting data; it also includes, where applicable, such factors as vendor quotations, non-recurring costs, changes in production methods and production or procurement volume, unit cost trends such as those associated with labor efficiency, make-or-buy decisions, and new source solicitations, rebates and discounts, or any other management decisions which could reasonably be expected to have a significant bearing on costs under the proposed contract. In short, cost or pricing data consists of all facts which can reasonably be expected to contribute to sound estimates of future costs as well as to the validity of costs already incurred. Cost or pricing data, being factual, is that type of information which can be verified."

When cost or pricing data is required, the contractor must sign a certificate of current cost or pricing data in which he certifies that, to the best of his knowledge and belief, the cost or pricing data submitted or specifically identified in writing is accurate, complete, and current. The FPR 1-3.807-3 specifies that:

"Because the contractor's certificate pertains to 'cost or pricing data', it does not make representations as to the accuracy of the contractor's judgment regarding the estimated portion of future costs or projections. It does, however, apply to the data upon which the contractor's judgment is based. This distinction between fact and judgment should be clearly understood."

Finally, the contractor must agree to inclusion of a contract provision--price reduction for defective cost or pricing data--for reducing the negotiated price to exclude any significant sums by which the price was increased because

the certified cost or pricing data was inaccurate, incomplete, or noncurrent as of the effective date of the contractor's certificate.

SCOPE OF REVIEW

During fiscal year 1971, Department of Transportation headquarters procurement officials negotiated 69 noncompetitive, fixed-price contracts and contract modifications, totaling about \$110 million, which were subject to the cost or pricing data requirements of FPR. We reviewed 42 of these procurement actions totaling about \$74 million. This represented about half of the noncompetitive, fixed-price contracts and contract modifications negotiated by the Federal Aviation Administration and all such contracts and modifications negotiated by the Department's other agencies. (See app. I.)

Our review was primarily concerned with the extent to which contractors were required to submit or specifically identify cost or pricing data, in writing, supporting their cost estimates and with whether (1) such data was complete, (2) the required certificates were obtained from the contractors, and (3) the defective-pricing-data clause was included in each contract.

We reviewed the procuring agency's contract negotiation files and the contractors' price proposals and related cost or pricing data submitted or identified, in writing, supporting the estimated costs. We also reviewed the reports on reviews of contractors' proposals submitted by Federal auditors and technical personnel and discussed our findings with negotiators, contracting officers, price analysts, and other procurement officials.

CHAPTER 2

REQUIRED CERTIFIED COST OR PRICING

DATA NOT OBTAINED

Agency officials did not have the contractors submit, or specifically identify, substantially complete cost or pricing data supporting the total negotiated prices. The reasons for not having obtained the required data are discussed in chapter 3. Furthermore, certificates of current cost or pricing data were not obtained for 15 of the 42 procurement actions covered by our review and the required defective-pricing-data clauses were not included in seven contracts.

When a prospective contractor is not required to submit or specifically identify, in writing, substantially complete cost or pricing data to Government procurement officials, the Government has no authoritative record of the data supporting the prospective contractor's proposal. Procurement officials should obtain substantially complete data so that they may establish well-formulated price negotiation positions and may obtain adequate safeguards against inflated cost estimates.

Further, even though the contractor may have furnished the required certification, it may not be wholly effective for obtaining subsequent price adjustments without an authoritative record by the Government of the data certified by the contractor. Without such a record the Government's rights under the defective-pricing-data clause may be impaired because it may be impracticable for the contracting officer to establish what data was used by the contractor and whether it was, in fact, erroneous in the light of other available data.

Even when cost or pricing data was obtained, the Government may still have no legal safeguard against an inflated cost estimate if the related certificate was not obtained or if the defective-pricing-data clause was not included in the contract.

CONTRACTORS DID NOT SUBMIT
REQUIRED COST OR PRICING DATA

We reviewed agency records for 42 prime contracts and contract modifications negotiated during fiscal year 1971.

<u>Agency</u>	<u>Contracts and modi- fications reviewed</u>	<u>Amount (000 omitted)</u>
Federal Aviation Adminis- tration	29	\$66,929
U.S. Coast Guard	7	1,572
Federal Railroad Adminis- tration (FRA)	3	4,417
Federal Highway Adminis- tration	2	603
National Highway Traffic Safety Administration	<u>1</u>	<u>173</u>
Total	<u>42</u>	<u>\$73,694</u>

Procurement officials had not obtained from any of the contractors substantially complete cost or pricing data supporting the total negotiated contract prices, although separate elements of the proposed prices were substantially supported in some instances. On many contracts, virtually no data had been obtained; on some contracts, data had been obtained for most of the major cost elements included in the negotiated prices.

FPR does not describe in detail what constitutes the submission or identification of adequate data. However, detailed guidance had been provided to Federal Aviation Administration procurement personnel in that its procurement regulations prescribe:

"*** the use of the Armed Services Procurement Regulation manual for Contract Pricing *** as a guide to personnel engaged in the analysis and negotiation of contract prices ***."

Procurement personnel in the other Department of Transportation agencies were aware of this manual. Appendix A of the manual shows how an adequate package of cost or pricing data can be submitted or specifically identified, in writing, and how much or how little it may take to comply with the requirements.

We use the terms "substantially complete," "partially complete," and "incomplete" when discussing the cost or pricing data supporting major cost elements of a contract proposal. "Substantially complete" means that the data submitted supports the significant parts of the cost element; "partially complete" refers to those situations where data supported some of the significant parts of the cost element but not a substantial part of the total; and "incomplete" refers to those cost elements for which cost or pricing data was almost nonexistent or was totally absent.

Following is a discussion of these matters for the major cost elements of material, labor, and overhead for 41 of the 42 contracts and modifications included in our review. The price of one contract was not broken down into these major cost elements.

Data supporting proposed
material costs of \$27 million

A list of materials, at least the principal items, with the estimated quantities and unit prices should be submitted by a contractor with the supporting cost or pricing data either submitted or specifically identified in writing. Material quantities, for example, should be based upon verifiable data, such as the requirements of applicable drawings or specifications, actual experience in producing the same or similar items (including scrap and spoilage factors, if appropriate), and other comparable data. Likewise material prices should be based upon such verifiable data as historical purchase prices, current invoice prices, lowest quoted prices in response to competitive solicitation, and similar data.

Our review of cost or pricing data supporting the material cost section of the proposals for the 41 contracts and modifications disclosed:

	Number of <u>proposals</u>	Amount proposed (000 <u>omitted</u>)
Substantially complete	-	\$ -
Partially complete	8	6,933
Incomplete	<u>33</u>	<u>20,205</u>
Total	<u>41</u>	<u>\$27,138</u>

None of the eight proposals supported by only partially complete data contained data as to the prospective contractor's basis for (1) selecting a particular supplier, (2) determining the reasonableness of the supplier's costs, or (3) needing the items and the quantities described. The data was considered to be partially complete, however, primarily because it contained some data supporting material prices. For example, one proposal identified the planned major subcontractors and the amounts and dates of the vendors' quotes. Another proposal identified specific purchase orders for about half of the total proposed material prices. Another proposal--for the modification of an existing contract--included actual costs of materials already purchased for about one-third of the total proposed material price.

The remaining 33 proposals were considered to be incompletely supported because they contained almost no data relating to material estimates. Of these 33 proposals, 13 did not even list principal material items or any supporting cost or pricing data.

Any cost or pricing data not submitted should be specifically identified, in writing, so that the record is clear as to what data the contractor is not certifying. Also the contractor should tell the procuring agency the exact location of the omitted data in the contractor's plant so that the agency may obtain or verify it if desired. None of the 41 proposals specified the location of the cost or pricing data not submitted to support the material estimates.

Data supporting proposed
labor costs of \$10.5 million

The contractor should furnish a breakdown of proposed labor costs by labor category with estimated hours and rates. The cost or pricing data supporting this breakdown should be submitted or be specifically identified, in writing. For example, labor hours and labor rates should be based on the contractor's experience in performing the same or similar engineering tasks and manufacturing operations. Where applicable, this data should be adjusted for anticipated changes in cost and performance.

Our review of cost or pricing data supporting the labor cost section of the proposals for the 41 contracts and modifications disclosed:

	<u>Number of proposals</u>	<u>Amount proposed (000 omitted)</u>
Substantially complete	1	\$ 2,042
Partially complete	11	2,795
Incomplete	<u>29</u>	<u>5,703</u>
Total	<u>41</u>	<u>\$10,540</u>

We concluded that one contractor's proposal contained substantially complete cost or pricing data supporting estimated labor costs. This particular proposal was for a follow-on purchase of additional equipment. The contractor based its labor hours on actual experience adjusted for anticipated labor efficiency. Labor rates were described as being based on actual labor costs plus forecasted labor rate increases which had been reviewed by Government auditors.

Of the 41 proposals, 11 were considered to be partially complete because they contained some data supporting estimated labor hours or labor rates. Most of this data was identified rather than actually submitted. For example, in one proposal the contractor used the average hourly rates for each labor category in effect at the date of the proposal. Job titles and pay grades for each labor category, as well as

the average hourly rates for the preceding 4-1/2 years, were included. The proposal was only partially supported, however, because the contractor gave no data as to its basis for the estimated labor hours.

Another contractor identified a similar prior job which it had used as a basis for estimating direct labor hours. This proposal was only partially supported because no data was given as to the basis used for estimating the labor rates.

The remaining 29 proposals contained no data as to the basis for the estimated labor rates. Seven of these 29 proposals did not even identify the labor categories.

Data supporting proposed overhead costs of \$25 million

Prospective contractors should identify the overhead rates used in their proposals, explain how they were developed, and show how they were used. The basis for this data should be submitted or specifically identified. Overhead rates, for example, should be supported by such data as a list of the accounts and related historical costs making up the overhead pools. The overhead base, historical trends, future projections, and similar pertinent data--as applicable--should be disclosed. The contractor should explain how such data was used to develop the overhead rates.

Our review of cost or pricing data supporting the overhead cost section of the proposals for the 41 contracts and modifications disclosed:

	<u>Number of proposals</u>	Amount proposed (000 omitted)
Substantially complete	3	\$ 3,060
Partially complete	5	1,504
Incomplete	<u>33</u>	<u>20,632</u>
Total	<u>41</u>	<u>\$25,196</u>

We considered the overhead costs in three proposals to be substantially complete because the contractors had explained how the rates were developed and had specifically identified the location of supporting data. One contractor had already negotiated future annual overhead rates with a Government agency.

We considered five of the proposals to be partially complete because they contained some data as to how the proposed rates had been developed. On the other hand none of these proposals had provided or specifically identified data as to the basis of the proposed rates. For example, one proposal identified actual overhead rates for the preceding 5 years but failed to support the proposed overhead rate for the ensuing year. Another proposal identified only current, quarterly overhead costs but did not show trends or how the proposed overhead rate had been computed.

The remaining 33 proposals contained almost no data supporting their overhead rates. Six of these 33 proposals did not even identify the rates.

CERTIFICATION OF DATA NOT ALWAYS OBTAINED

For 15 of the 42 contracts and modifications covered by our review, awards had been made without obtaining the required certificates of current cost or pricing data. Following are the agencies involved, the number of certificates not obtained, and the related contract amounts.

<u>Agency</u>	<u>Certificates not obtained</u>	<u>Contract amount (000 omitted)</u>
Federal Aviation Administration	10	\$14,510
Coast Guard	2	605
Federal Railroad Administration	2	589
Federal Highway Administration	<u>1</u>	<u>468</u>
Total	<u>15</u>	<u>\$16,172</u>

FPR provides that, when a certificate of current cost or pricing data is required, the certificate be included in the contract file along with the documents supporting the

negotiations. The contractor is required to submit the certificate as soon as practicable after agreement is reached on the contract price. The certificate should read as follows:

"This is to certify that, to the best of my knowledge and belief, cost or pricing data submitted in writing, or specifically identified in writing if actual submission of the data is impracticable *** to the Contracting Officer or his representative in support of _____ [identification of proposal or other documents] are accurate, complete, and current as of _____." (date)

We were informed that the 15 certificates had not been obtained because they had been overlooked by procurement officials responsible for negotiating the particular contracts.

If the required certificate is not obtained, the Government is not taking advantage of an available safeguard against inflated cost estimates in negotiated prices. Also, inasmuch as the defective-pricing-data clause of the contract applies to the cost or pricing data certified by the contractor, it appears that a subsequent price reduction--if appropriate--might be difficult to obtain if the contractor had not submitted the required certificate.

NOT ALL CONTRACTS CONTAINED REQUIRED DEFECTIVE-PRICING-DATA CLAUSES

The defective-pricing-data clauses were not included in four of the Coast Guard contracts and three FRA contracts we reviewed. FPR requires this clause in each negotiated contract when cost or pricing data and the related certificate are required. The clause provides for reducing the contract price if the contracting officer determines that the price was increased by any significant sums because the certified cost or pricing data was incomplete, inaccurate, or noncurrent.

The defective-pricing-data clause was not a standard contract provision of the Coast Guard or FRA, and contracting officials were not including it in their contracts. If this clause is not included in the contract, the Government is not taking advantage of an available safeguard against

inflated cost estimates in negotiated prices. Also it appears doubtful that a subsequent price reduction--if appropriate--could be obtained if the contractor had not contractually agreed to do so.

We discussed this matter with FRA and Coast Guard procurement officials who agreed to include the required defective-pricing-data clause in their standard "General Provisions."

CHAPTER 3

REASONS FOR NOT OBTAINING REQUIRED DATA

During our review it became apparent that cost or pricing data had not been obtained by procurement officials because they usually did not request contractors to submit or specifically identify cost or pricing data in writing but relied on Government auditors and technical representatives to obtain and verify such data. Furthermore, they did not exercise reasonable care to insure that all the required certificates were obtained and that the defective-pricing-data clauses were included in the contracts.

Usually each contractor was requested to submit its estimated price on the agency's price proposal form which provided for the contractor's estimates for materials, labor, overhead, general and administrative expenses, other costs, and profit. The contractor was also asked to furnish a list of the major items of materials and a breakdown of labor, by job category and showing estimated hours and proposed labor rates. The information requested was not cost or pricing data--the verifiable facts upon which the proposed price was based. Rather, the contractors were asked to present their estimated costs in various formats.

Even when a request for a proposal referred the prospective contractor to the cost or pricing data requirements of FPR or when a contractor used the Department of Defense contract pricing proposal form (DD Form 633), which contains specific detailed instructions to contractors regarding the submission of cost or pricing data, the contractors still did not submit substantially complete data. It appears that whenever a contractor submitted or specifically identified data in writing, it did so at its own choosing.

In discussing the results of our review with contracting officers and other procurement personnel, it became evident why they had not required contractors to submit or identify, in writing, certified cost or pricing data supporting significant cost estimates. Almost without exception these officials told us that they were relying upon Government auditors to obtain and verify the data supporting the

contractors' proposals and that this was believed to be sufficient.

FPR requires preaward audits of any proposal for a contract or contract modification which exceeds \$100,000 and which is for a contract that will be based on cost or pricing data submitted by the contractor. The purpose of such an audit is to review and analyze the data submitted, to aid the contracting officer in analyzing proposed costs. The auditor is required to describe any deficiencies in the data and to explain their significance. FPR states, however, that an audit of the price proposal is not intended to relieve the contractor of its obligation to submit accurate, complete, and current cost or pricing data.

Furthermore, we noted that in many cases audits had been waived or qualified by the auditors. For nine procurement actions, audits had been waived because of time limitations, because information was available from prior procurement, and because of other reasons. Also there were 10 audit reports in which the auditors had advised procurement officials that, for lack of time or other reasons, they had not reviewed substantial subcontract costs, spare parts, or other items.

Comments made to us during our review may indicate why agency officials did not require prospective contractors to submit or specifically identify certified costs or pricing data in writing. For example:

1. A contract negotiator advised us he did not believe that FPR required the contractor to submit or specifically identify cost or pricing data in considerable detail.
2. A contracting officer said he did not believe that cost or pricing data was necessary because it would be an administrative burden to obtain and review it.
3. A contracting official informed us he did not believe that it was necessary to have specific identification of the supporting data because he was sure that the contractor had the data and that the costs proposed by the contractor were its best estimates.

CHAPTER 4

CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS

CONCLUSIONS

The Department needs to assure itself that (1) all of its procurement officials fully understand the benefits to be achieved by obtaining and keeping certified cost or pricing data and (2) each of its agencies complies with FPR.

A major step toward compliance could be achieved by the use of a uniform contract-pricing proposal form containing detailed instructions to offerors and by strict enforcement of those instructions by agency officials. FPR was revised in January 1972 to include Optional Form 59, Contract Pricing Proposal, which was designed for the submission of cost or pricing data by contractors. We believe that this form, and its instructions and explanations which implement FPR, should be incorporated in all Department requests for proposals when a contract or contract modification is to be negotiated on the basis of cost or pricing data.

RECOMMENDATIONS TO THE SECRETARY OF TRANSPORTATION

We recommend that the Department:

1. Insure that procurement officials are fully aware of the benefits of obtaining and using certified cost or pricing data for negotiating noncompetitive contract prices.
2. Require procurement officials to obtain certified cost or pricing data in the detail called for by FPR.
3. Require procurement officials to keep the certified cost or pricing data, along with the contractor's certificate of current cost or pricing data, in the record of negotiation.

AGENCY COMMENTS

The Department, in commenting on our draft report by a letter dated September 7, 1972 (see app. II), said that its contracting officers had obtained substantially complete cost or pricing data for a large number of the contracts which we had reviewed. Nevertheless the Department agreed that improvements were needed in obtaining and using current cost and pricing data and stated that it was:

1. Including in the Department's new general provisions the required defective cost or pricing data clause.
2. Instructing all of its procurement personnel to review the applicable FPR requirements and to insure that these requirements are complied with.
3. Instructing all of its procurement personnel to review the discussion in the Armed Services Procurement Regulation Manual on Contracting Pricing, Appendix A, on cost or pricing data.
4. Prescribing the use of optional cost or pricing data forms devised by the General Services Administration for the Department's negotiated procurements.

We believe that these actions should improve contract administration.

DEPARTMENT OF TRANSPORTATION
SCHEDULE OF FISCAL YEAR 1971

BEST DOCUMENT AVAILABLE

CONTRACTS AND MODIFICATIONS

COVERED BY GAO'S REVIEW

<u>Contract or modification number</u>	<u>Date of contract or modification</u>	<u>Commodity</u>	<u>Price negotiated</u>
FEDERAL AVIATION ADMINISTRATION:			
FA67NS-27:			
Mod 124	6-30-71	Computer display channel equipment	\$ 3,104,000
Mod 126	6-29-71	Computer display channel equipment	6,654,000
Mod 132	6-29-71	Changes in design	3,100,000
FA68WA-1890:			
Mod 34	6-18-71	Equipment for instrument landing system	103,000
FA68WA-1965:			
Mod 12	9-11-70	Airport surveillance radar	1,273,000
Mod 19	10-26-70	Transportation and installation	489,000
Mod 30	6-21-71	Airport surveillance radar	14,213,000
FA69NS-136:			
Mod 2	6-14-71	Purchase and testing of prototype equipment	170,000
Mod 3	6-30-71	Modified digital data communications equipment	4,316,000
DOT FA69NS-177:			
Mod 9	5-13-71	Specification changes to system maintenance monitor console	545,000
DOT FA69WA-2071:			
Mod 16	9-25-70	Changes to automated radar terminal systems	4,250,000
Mod 41	6-24-71	Spare parts	207,000
DOT FA69WA-2209:			
Mod 14	6-30-71	Bright radar indicator tower systems	635,000
DOT FA70WA-2256	10- 6-70	Radar microwave link systems	1,093,000
DOT FA70WA-2288:			
Mod 17	5-13-71	Spare parts for emergency communications equipment	297,000
DOT FA70WA-2345	12-28-70	Improve and relocate long-range radars	275,000
DOT FA70WA-2362	12-19-70	Modification kits for beacon decoders	1,298,000
DOT FA70WA-2505	12- 4-70	Spare parts for en route radar	500,000
DOT FA71WA-2525	12-30-70	Instrument landing systems	4,600,000
DOT FA71WA-2544	3-19-71	Interface unit for aircraft altitude instruments	181,000
DOT FA71WA-2570	5-20-71	Radar performance monitor	132,000
DOT FA71WA-2599	6-23-71	Common equipment for airport radar	299,000
DOT FA71WA-2606	6-24-71	Radar display subsystems	14,648,000
DOT FA71WA-2629	6-30-71	Analyze and test aircraft approach couplers	247,000
DOT FA71WA-2632	6-26-71	Flight data distribution system	230,000
DOT FA71WA-2639	6-30-71	Engine generators	2,512,000
DOT FA71WA-2672	6-30-71	Demonstrate and test an airport turbulence alert system	1,224,000
DOT FA71WA-2680	6-30-71	Engines and transmissions for mobile lounges	188,000
DOT FA71WA-2682	6-30-71	Replacement-parts lists for central computer complex	146,000
			<u>66,929,000</u>

APPENDIX I

<u>Contract or modification number</u>	<u>Date of contract or modification</u>	<u>Commodity</u>	<u>Price negotiated</u>
COAST GUARD:			
DOT-CG-11,134-A	3- 1-71	Antenna tuning and coupling units	123,000
DOT-CG-11,160-A	8-24-70	Digital monitoring equipment	316,000
Mod 2	10- 1-70	Spare-parts kits	110,000
DOT-CG-12,077-A	6-28-71	Environmental profiling systems	276,000
DOT-CG-12,798-A	5- 7-71	Modifications to aircraft	100,000
DOT-CG-84,793-A:			
Mod 18	9-29-70	Diesel generating units	152,000
DOT-CG-93,247-A:			
Mod 53	9-15-70	Modifications to radar and sonar room	<u>495,000</u>
			<u>1,572,000</u>
FEDERAL RAILROAD ADMINISTRATION:			
C-67-66:			
Mod 7	11- 5-70	Extend lease of turbotrain for 3 months	141,000
7-35170:			
Mod 3	11-24-70	Extend maintenance contract on turbotrain for 3 months	447,000
DOT-FR-10022	1-18-71	Lease, maintenance, servicing, fuel, refurbishment, improvement, and modification of turbotrain	<u>3,829,000</u>
			<u>4,417,000</u>
FEDERAL HIGHWAY ADMINISTRATION:			
DOT-FH-11-7667	12- 8-70	Training courses for bridge inspectors	135,000
DOT-FH-11-7717	4-13-71	Stage II, installation of passing-aid system for rural highways	<u>468,000</u>
			<u>603,000</u>
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION:			
DOT-HS-141-1-220	6-30-71	Production engineering of model 33300 crash recorder and production drawings	<u>173,000</u>
			<u>\$73,694,000</u>
Total			

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OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

ASSISTANT SECRETARY
FOR ADMINISTRATION

September 7, 1972

Mr. Richard W. Kelley
Associate Director, R.E.D.
General Accounting Office
Washington, D. C.

Dear Mr. Kelley:

We appreciate the opportunity to review and comment on your draft report "Need for Improved Administration in the Negotiation of Contract Prices".

Your review was undertaken to evaluate the procedures followed by DOT contracting officials to obtain certified cost or pricing data with which to negotiate contract prices, and you state that GAO reviewed 42 noncompetitive, fixed-price contracts or modifications negotiated during fiscal year 1971 for a total of \$74 million. You found that in none of these 42 procurement actions did contractors submit or specifically identify, in writing, substantially complete cost or pricing data to support the negotiated prices,

[See GAO note.]

It is, as your draft report indicates, a matter of subjective judgment as to how much data is enough data. We would argue strenuously that in a large number of the contracts which you have cited, the Contracting Officer did, in fact, obtain substantially complete cost and pricing data, which the Federal Procurement Regulations define as "...all facts existing up to the time of agreement on price which prudent buyers and sellers would reasonably expect to have a significant effect on the price negotiations." (Underlining added).

GAO note: The deleted comments relate to statements contained in the draft report but omitted from this final report.

APPENDIX II

We agree, however, that there is, within the Department of Transportation, an unevenness in obtaining and using current cost and pricing data, and that a greater consistency in this area must be attained. To this end, we are:

1. Including in the new General Provisions of the Department of Transportation, the required defective cost or pricing data clauses.
2. Instructing all of our procurement personnel to review the requirements of FPR 1-3.807 and 1-3.814 and assure that they are being complied with.
3. Instructing all of our procurement personnel to review the discussion in the Armed Services Procurement Regulation Manual on Contract Pricing, Appendix A, on cost or pricing data.
4. Prescribing the use of optional GSA Forms 59 and 60, rather than locally devised forms or formats, to obtain pricing data.

We are gratified that your review did not disclose any instances where the Government was prejudiced by failing to consistently follow the requirements for obtaining current cost and pricing data. We are confident that our Contracting Officers are obtaining the pricing data they need, either directly or through the use of on-site audit services, to negotiate reasonable prices, but we do recognize the importance of complying fully with the regulatory requirements.

Sincerely,


William S. Heffelfinger

Copies of this report are available from the U. S. General Accounting Office, Room 6417, 441 G Street, N W., Washington, D.C., 20548.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members and students. The price to the general public is \$1.00 a copy. Orders should be accompanied by cash or check.