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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

May 23, 2003

The Honorable John Ensign
Chairman
The Honorable Daniel Akaka
Ranking Minority Member
Subcommittee on Readiness and Management Support
Committee on Armed Services
United States Senate

Subject: *March 19 Hearing on Sourcing and Acquisition--Questions for the Record*

It was a pleasure to appear before the Subcommittee on March 19, 2003, to discuss various sourcing and acquisition issues. This letter responds to your request for my views on the following questions for the record.

Q. How would you assess the impact of the reductions in the defense acquisition workforce over the last decade?

Between fiscal years 1990 and 2001, the Department of Defense's (DOD) acquisition workforce was reduced significantly—by more than 50 percent. At the same time, DOD's contracting workload increased by 12 percent. As we reported last month, governmentwide reductions in the acquisition workforce along with a number of procurement reforms—including an increased reliance on services provided by commercial firms, changes to federal acquisition processes, and the introduction or expansion of alternative contracting approaches—have placed unprecedented demands on the federal acquisition workforce.[1] Underlying these challenges is DOD's need to address serious imbalances in the skills of its remaining workforce and the potential loss of highly specialized knowledge as its procurement specialists retire.

During the last decade, the Congress passed several significant pieces of acquisition reform legislation, including the Federal Acquisition Streamlining Act of 1994 and the Clinger-Cohen Act of 1996, to provide agency officials with greater flexibility and tools to acquire goods and services more efficiently. Today, contracting specialists must have a greater knowledge of market conditions, industry trends, and the technical details of the commodities and services they procure. The Department of Defense, like other federal agencies, has had difficulty adjusting to the significant changes in the federal acquisition environment—particularly in regard to improving its acquisition of services and ensuring the appropriate use of contracting techniques

[1] U.S. General Accounting Office, *Federal Procurement: Spending and Workforce Trends*, GAO-03-443 (Washington, D.C.: Apr. 30, 2003).

and approaches. As a result, earlier this year we reported that DOD's contract management remains a high-risk area, which we originally designated as such in 1992.[2]

While the Congress and the executive branch have looked for ways to streamline the acquisition process and generate savings, many of our recent reviews indicate that DOD has missed out on opportunities to reduce administrative burdens and enhance its acquisition outcomes. For example:

- DOD contracting officials have not consistently followed established procedures for ensuring fair and reasonable prices when using the General Services Administration's (GSA) Federal Supply Schedule to purchase services. Specifically, we reported in November 2000 that 77 percent of the orders we reviewed, valued at $60.5 million, were placed without seeking competitive quotes from multiple contractors, as required by GSA's procedures.[3] The key reason that established procedures were not followed is that many contracting officers were not even aware of GSA's requirement to seek competitive quotes. Also, guidance for the program has not been clear. A recent proposed change to the Federal Acquisition Regulation should help make distinctions between buying services and buying products, and the proposed change should help inform contracting officers that competitive quotes should be sought when acquiring services with a statement of work.

- DOD has also been challenged to implement performance-based service contracting—an approach to contracting that is intended to achieve greater cost savings and better acquisition outcomes. We reported in September 2002 that DOD, like other agencies we reviewed, had achieved mixed success in incorporating four basic performance-based attributes into its contracts.[4] For example, two of the five DOD contracts that it identified as models of performance-based contracting did not clearly exhibit all four performance-based attributes. Our report also raised concern as to whether agencies have a good understanding of performance-based contracting and how to take full advantage of it. We recommended that the OFPP Administrator clarify existing guidance to ensure that performance-based contracting is appropriately used, particularly when acquiring more unique and complex services that require strong government oversight.

- Several reports we have issued since 1999 have indicated that inadequate guidance and poor training played a role when DOD personnel did not use sound techniques to obtain the best prices for DOD. These situations are largely in areas where DOD cannot, or chooses not to, rely on cost-based pricing techniques for contracts awarded without competition. For example, in June 1999 we reported that in our review of 65 sole-source purchases of commercial items, contracting

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[2]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Defense*, GAO-03-98 (Washington, D.C.: January 2003).

[3]U.S. General Accounting Office, *Contract Management: Not Following Procedures Undermines Best Pricing Under GSA's Schedule*, GAO-01-125 (Washington, D.C.: Nov. 28, 2000).

[4]U.S. General Accounting Office, *Contract Management: Guidance Needed for Using Performance-Based Service Contracting*, GAO-02-1049 (Washington, D.C.: Sept. 23, 2002).

officers' price analyses were often too limited to ensure that the prices were fair and reasonable.[5] In April 2002, we reported that DOD was waiving the requirement for contractors to submit certified cost or pricing data—a key requirement meant to ensure that the government has the data it needs to effectively negotiate with the contractor in contracts awarded without competition.[6] DOD's guidance was inadequate to help contracting officers determine whether a waiver should be granted, what type of data and analyses are acceptable, and what kind of expert assistance should be obtained.

Although we have not evaluated the extent to which reductions in the size of the acquisition workforce may have contributed to these results, DOD's Inspector General has identified a number of adverse impacts attributable to reductions in DOD's acquisition workforce. Specifically, in February 2000, the Inspector General reported on

- increased backlogs in closing out completed contracts;
- increased program costs resulting from contracting for technical support versus using in-house technical support;
- insufficient personnel to fill in for employees on deployments;
- insufficient staff to manage requirements, reduced scrutiny and timeliness in reviewing acquisition actions, personnel retention difficulty;
- increased procurement action lead time; and
- lost opportunities to develop cost savings initiatives.[7]

The Inspector General's report noted that while DOD had improved efficiency in contracting through acquisition reform initiatives, concern was still warranted because "staffing reductions have clearly outpaced productivity increases and the acquisition workforce's capacity to handle its still formidable workload." In a May 2001 report, DOD's Inspector General concluded that the lack of planning, shortages in staffing, and the absence of senior leadership oversight contributed to poor pricing analysis and the inappropriate use of waivers in a significant number of contracts reviewed.[8]

DOD is taking a number of actions to address its acquisition challenges. Most of these actions are at the early stages, however, and it is uncertain whether they can be fully and successfully implemented in the near term. Because effective acquisition management plays a key role in creating and sustaining high-performing organizations, a critical issue for DOD is whether it has today, or will have tomorrow, a workforce with the skills needed to manage DOD's acquisitions.

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[5]U.S. General Accounting Office, *Contract Management: DOD Pricing of Commercial Items Needs Continued Emphasis*, GAO/NSIAD-99-90 (Washington, D.C.: June 24, 1999).
[6]U.S. General Accounting Office, *Contract Management: DOD Needs Better Guidance on Granting Waivers for Certified Cost or Pricing Data,* GAO-02-502 (Washington, D.C.: Apr. 22, 2002).
[7]Department of Defense, Inspector General, *DOD Acquisition Workforce Reduction Trends and Impacts*, *Report No.D-2000-088* (Arlington, VA.: Feb. 29, 2000).
[8]Office of the Inspector General, Department of Defense, *Contracting Officer Determinations of Price Reasonableness When Cost or Pricing Data Were Not Obtained*, Report No. D-2001-129 (Arlington, Va.: May 30, 2001).

Q. Do you view the recommendations of the Commercial Activities Panel as a menu from which it is appropriate to pick and choose recommendations to implement on a piecemeal basis, or as a cohesive set of principles, which should be considered on a comprehensive basis?

The 12-member Commercial Activities Panel produced two sets of recommendations for improving the way federal agencies make sourcing decisions. The first set, which the panel unanimously agreed to, consisted of a set of principles to guide sourcing policy for the federal government. The panel specifically noted that while each principle is important, no single principle stands alone and that the principles were adopted as a package. The second set of recommendations was adopted by a two-thirds supermajority of the panel. These recommendations involved use of the Federal Acquisition Regulation to conduct public-private competitions, limited changes to Circular A-76, and the promotion of high-performing organizations across the federal government. This set of recommendations was also intended to be adopted as a package, rather than on a piecemeal basis.

Q. The Inspector General of the Department of Defense reported that a "consultant's error in a public-private competition resulted in the award of an A-76 contract with potential 10-year value of $346 million to a contractor rather than to the lower in-house bid." Does this episode reinforce the recommendation of the Commercial Activities Panel that all parties to a public-private competition, including representatives of federal employees, should have the same access to the bid protest process to challenge the way a competition has been conducted?

It is quite appropriate for both sides to be able to challenge the results of public-private competitions. In fact, public employees, like private-sector vendors, have long had the right under Circular A-76 to file an appeal at their agency challenging the results of a public-private cost comparison. It is true, though, that only private-sector vendors can go on—if they lose an agency-level appeal—to file a bid protest at GAO or in court. As your question notes, the Commercial Activities Panel recommended that all parties to a public-private competition should have rights as nearly equal as possible to challenge the way the competition was conducted, including protest rights. The panel noted, however, that granting protest rights should be part of an effort to address the full range of issues related to competing for and performing government contracts. The panel also recognized that, if a decision were made to permit public-sector bid protests of the results of public-private competitions, the question of who would have representational capacity to file such a protest would have to be carefully considered.

Q. Would you agree that the challenges of meeting the Administration's goals for public-private competition, and of managing services contracts that result from such competition, are more likely to require an increase in acquisition resources than a decrease?

The Administration's goals for conducting public-private competitions could have a significant impact on the acquisition workforce in a number of ways. First, as noted by the Commercial Activities Panel, the current process for conducting these

competitions is complicated, and therefore requires a skilled acquisition workforce to support the studies. Any changes to the process will require additional resources for training and perhaps additional personnel. Second, the number of positions proposed for study in the coming years is significantly higher than in the past, greatly increasing the competitive sourcing workload at many agencies. At DOD, for example, the number of positions proposed for study during the next 5 years is double what the department has been able to review over the between fiscal years 1997 and 2002. Civilian agencies, which have not conducted nearly as many public-private competitions as DOD, will face even greater challenges in building the necessary infrastructure to conduct these competitions.[9] Finally, to the extent that an increase in competitive sourcing studies results in an increase in the award of service contracts to the private sector, agencies will need to ensure that they have a sufficient acquisition workforce in numbers and abilities to administer those contracts effectively. In this regard, the private sector historically has won half the public-private competitions.

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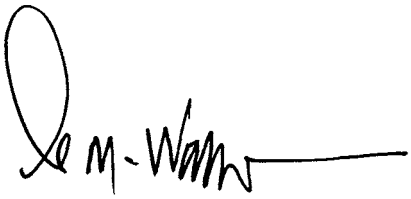
We are sending copies of this report to the Administrator, Office of Federal Procurement Policy; the Director, Defense Procurement and Acquisition Policy; and interested congressional committees. We will also make copies available to others upon request. In addition, this report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you have any questions about this letter or need additional information, please call me or Jack Brock, Managing Director, Acquisition and Sourcing Management, on (202) 512-4841. Key contributors to this letter included Vijay Barnabas, Ralph Dawn, and Karen Sloan.



David M. Walker
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[9] The costs for additional training or personnel needed to conduct public-private competitions could be offset, of course, through the savings realized from conducting the competitions.