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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

DEFENSE DIVISION

B-165069

MAR 30 1971



The Honorable
The Secretary of Defense

Attention: Assistant Secretary of Defense
(Comptroller)

Dear Mr. Secretary:

The General Accounting Office has made a study of multiyear contracts awarded under Public Law 90-378, enacted in July 1968. The law authorizes the Department of Defense to award contracts for periods up to 5 years for certain overseas services and related supplies for which only first year funds are available. The primary purpose of the law is to increase competition and thereby reduce costs to the Government where there is a foreseeable need for the services or supplies for more than 1 year and where a substantial initial investment by a new contractor is required.

Our study was performed at seven procurement offices located in Europe, the Far East, and the United States. We wanted to find out the extent of multiyear contracting, the effect of multiyear contracting, and the problems that may have occurred in using this authority under existing Defense regulations and practices.

We examined 125 contracts totaling about \$140 million awarded for services overseas during the period November 1968 to December 1969. Nine of the contracts totaling about \$30.7 million had been awarded on a multiyear basis. Eleven other contracts that appeared susceptible to solicitation for multiyear procurement were awarded on 1-year bases. It appeared that many of the other contracts were not considered for multiyear awards because of the uncertainties as to continuing requirements.

The limited number of multiyear procurements we examined into did not provide a realistic basis for evaluating the effect of the law on increasing competition and on savings to the Government. In our study, however, we observed a number of practices and problems which, if revised or resolved, might contribute to more extensive and effective use of multiyear contracting. These matters are presented below for your consideration.

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SOLICITATION PROCEDURES

Current regulations require that multiyear contracting be approved by higher authority than the procurement officer before the award is made. The regulations are silent as to whether approval shall be obtained prior to or after solicitation of multiyear bids. Our study indicated that procurement officials are requesting approval prior to the solicitation.

We believe the regulations should be clarified to provide that, where procurement officials determine that there is a continuing need, they should solicit 1-year and multiyear bids and the offeror's estimated initial investment before requesting approval. This information would be helpful to the approving authority in determining whether the conditions exist for multiyear procurement and whether this method is advantageous to the Government.

EVALUATION OF 1-YEAR AND MULTIYEAR PRICES

Under current regulations the lowest projected 1-year bid is compared with the lowest multiyear bid to determine whether to award a 1-year or a multiyear contract. This procedure is satisfactory for formally advertised procurements, since the award must be made at the price offered without discussion. Most overseas procurements, however, are awarded by negotiation, which permits the contracting officer to analyze and discuss available information.

The analysis should recognize that, to avoid a loss if a contract for only 1-year is awarded, a contractor would have to include its initial investment in the 1-year price.

In analyzing the price, procurement officials should multiply the 1-year price (less initial investment) by the number of years of the multiyear contract, add back the initial investment, and compare the result with the multiyear price. If the multiyear price is higher, procurement officials would have a sound basis for inquiring into the difference and, if warranted, negotiating a lower price.

FUNDING PROBLEM

Our study has indicated that some procurement officials were reluctant to use multiyear contracts because of the uncertainty of the availability of funds for all years subsequent to the first year of the award. Multiyear contracts awarded under the authority of Public Law 90-378 are funded either when the Congress approves the succeeding year's budget or when a joint resolution to continue expenditures is approved. Quite often such approvals occur close to, or after, the end of the fiscal year.

Multiyear contracts provide for their cancellation in the event that funds for each succeeding year are not available. Notification of non-availability of funds must be made in sufficient time to permit the contractor to stop work by the end of the fiscal year. If the contract is to be continued, the contracting officer may have to notify the contractor that funds are available before they have been approved by the Congress.