

## DOCUMENT RESUME

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Federal Agencies Should Be Given General Multiyear Contracting Authority for Supplies and Services. PSAD-78-54; B-160725. January 10, 1978. 20 pp. + 3 appendices (5 pp.).

Report to the Congress; by Elmer B. Staats, Comptroller General.

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Federal agencies operating under annual appropriations generally are prohibited from entering into contracts for needs occurring beyond the year for which the appropriation is made. Multiyear contracts entitle the Government to purchase services or supplies from contractors for more than 1 year. The Commission on Government Procurement has recommended that Congress enact legislation to permit multiyear contracting of supplies and services using annual or multiple-year appropriations. Findings/Conclusions: Federal agencies with either funding or statutory authority for multiyear procurement benefit from reduced contract prices and other advantages. Annual savings of \$3 million resulting from multiyear procurement were identified on 26 contracts having an annual cost of \$14 million. The benefits of multiyear procurement include: contract prices may be reduced for agency service and supply needs, Federal agencies' administrative costs can be reduced, the quality of performance and service could increase, and competition could increase for the initial award of a Government contract. Generally, the advantages of multiyear procurement outweigh the disadvantages. Recommendations: Congress should enact legislation authorizing multiyear procurement for Federal agencies and provide for the Office of Federal Procurement Policy to: develop appropriate criteria for use of the procurement method, require responsible agency officials to determine when the criteria are met, and provide

for the payment of cancellation costs. (RRS)

# *REPORT TO THE CONGRESS*

*BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES*

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## **Federal Agencies Should Be Given General Multiyear Contracting Authority For Supplies And Services**

Most Federal agencies operating with annual appropriations are prohibited from contracting for more than 1 year. The Commission on Government Procurement recommended that legislation be enacted to permit multiyear contracting by all agencies when judgment dictates that the Government will benefit. Legislation is now under consideration to accomplish this.

GAO reassessed the advantages and disadvantages of multiyear procurement and found that it would be an advantageous procurement method. GAO recommends that the Congress enact legislation authorizing general multiyear contracting authority for Federal agencies and provide for the Office of Federal Procurement Policy to develop appropriate criteria to guide Federal agencies in its use.





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

B-160725

To the President of the Senate and the  
Speaker of the House of Representatives

This report discusses the desirability of multiyear contracting authority for all Federal agencies and the controls needed to make its use effective.

Our review was made to determine if the benefits of multiyear contracting, as reported by the Commission on Government Procurement in 1971, continue to accrue where authority for such contracting exists. We also wanted to find out if there would be additional savings in contract and administrative costs if general multiyear contracting authority for supplies and services is given to Federal agencies.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Acting Director, Office of Management and Budget; the Administrator, Office of Federal Procurement Policy; and the heads of the agencies discussed in the report.

A handwritten signature in black ink, reading "James R. Steeds".

Comptroller General  
of the United States

D I G E S T

Federal agencies operating under annual appropriations generally are prohibited from entering into contracts for needs which will occur beyond the year for which the appropriation is made. Procurement for such needs is called multiyear procurement.

The Commission on Government Procurement reported that the advantages of multiyear procurement exceeded its disadvantages. It recommended that the Congress enact legislation to permit multiyear contracting of supplies and services using annual or multiple-year appropriations. Legislation to this end now is under consideration.

Under current prohibitions, only no-year or multiple-year appropriations may be used to fund multiyear appropriations unless otherwise provided by law. Such contracts generally are restricted to special projects such as research and development and major acquisitions.

In reassessing multiyear procurement GAO found that where authority for such contracting exists benefits continue to accrue. Annual savings of \$3 million resulting from multiyear procurement were identified on 26 contracts having an annual cost of \$14 million. These savings do not include possible administrative cost savings which may be realized by avoiding the necessity of annual contract award or renewal.

Potential exists for additional savings if general multiyear contracting authority is provided to all Federal agencies. Federal officials and representatives of contractor organizations with whom GAO discussed these matters generally agreed with this assessment.

To determine if many single-year contracts existed which could be converted to multiyear contracts, GAO asked officials at four agencies to identify examples. They identified 224 contracts from which GAO selected 127 for review. These contracts were for general services and supplies and recurring needs, and had been awarded to the same contractor for 2 or more years.

Through its discussions with agency officials, contractors, and representatives of contractor organizations, GAO identified the following benefits of multiyear procurement:

- Contract prices may be reduced for agency service and supply needs.
- Federal agencies' administrative costs for service and supply requirements could be reduced.
- The quality of performance and service from contractors could be increased.
- Competition for Government contracts could increase for the initial award.

Also identified were some potential pitfalls in the use of multiyear contracting. (See ch. 3.)

Generally the advantages of multiyear procurement far outweigh the possible disadvantages so that, with proper controls on the use of the method, substantial savings can be realized. For authorization of multiyear procurement, the following conditions should be present. There should be

- potential savings to the Government through contract cost reduction and/or increased operational efficiency,
- recurring need for a service or supply,
- known quantities required, and
- specifications not subject to frequent change.

Ultimate control over multiyear procurement will remain with the Congress through its annual review of appropriations. The Office of Federal Procurement Policy can control the use of the multiyear procurement technique through its overall responsibility for directing Federal procurement policies, procedures, and regulations.

#### RECOMMENDATION TO THE CONGRESS

GAO believes that the Congress should enact legislation authorizing general multiyear contracting authority for Federal agencies and provide for the Office of Federal Procurement Policy to develop appropriate criteria to guide the agencies in its use.

#### AGENCY COMMENTS

The Office of Federal Procurement Policy, the Defense Logistics Agency, and the General Services Administration commented that the advantages of multiyear procurement outweigh the disadvantages and that it would be an advantageous procurement method. They concurred in GAO's recommendation regarding the need for such multiyear contracting authority and the development of criteria for its use.

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ABBREVIATIONS

ASPR	Armed Services Procurement Regulation
DLA	Defense Logistics Agency
DOD	Department of Defense
FSS	Federal Supply Service
GAO	General Accounting Office
GSA	General Services Administration
NASA	National Aeronautics and Space Administration
OFPP	Office of Federal Procurement Policy
SBA	Small Business Administration

## CHAPTER 1

### INTRODUCTION

This report discusses the desirability of multiyear contracting authority for all Federal agencies and the controls needed to make its use effective. In November 1971, the Commission on Government Procurement reported on its extensive study of multiyear procurement. It concluded that the advantages of multiyear procurement are greater than its disadvantages and that it should be used by all agencies when judgment dictates that the Government will benefit. The Commission recommended that the Congress enact legislation to permit multiyear contracting of supplies and services using annual or multiple-year appropriations. Legislation is now under consideration to authorize such contracting.

On September 9, 1975, Senator Charles Percy sponsored a bill (S. 2309) which included a provision for multiyear contracting with annual appropriations. A similar bill (S. 3005) was introduced by Senator Lawton Chiles on February 19, 1976. Neither bill was considered during the 94th Congress. Senator Chiles' bill was reintroduced as S. 1264 on April 6, 1977. Section 504 of this bill would permit agencies to contract for property or services for periods not exceeding 5 years. Another bill, S. 1491, introduced by Senator Percy on May 11, 1977, would authorize the procurement of janitorial, protective, trash removal, and similar services for periods not exceeding 4 years.

### CONTRACTING AUTHORITY TIED TO APPROPRIATIONS PROCESS

The contracting authority of Federal agencies is closely tied to congressional appropriations. These appropriations are usually stated in maximum dollar amounts and are for a definite period of time. There are three main types of appropriations: no-year, multiple-year, and annual. No-year appropriations remain available for obligation until expended, while multiple-year appropriations are made available for a specific time period such as 3 or 5 years. Annual appropriations are available for obligation only for the current fiscal year unless otherwise specified by law.

Annual appropriations are the most prevalent form of congressional funding. Most Federal agencies must obligate funds during the appropriation year for bona fide needs of that year and are precluded from entering into contracts which obligate the Government in excess of those needs.

In the first general appropriation for the Government enacted in 1789, the Congress established the principle that 1-year appropriations can be used only during the fiscal period for which they are made. Today this principle is contained in 31 U.S.C. 712 a, which provides that:

"Except as otherwise provided by law, all balances of appropriations contained in the annual appropriation bills and made specifically for the service of any fiscal year shall only be applied to the payment of expenses properly incurred during that year, or to the fulfillment of contracts properly made within that year."

An important concept concerning this principle is the "bona fide needs" rule. This rule, as stated in several Comptroller General decisions (e.g., 20 Comp. Gen. 437 (1941), 33 Comp. Gen. 57 and 90 (1953)), requires that in order to obligate a fiscal year appropriation where payments will be made in a succeeding year, the obligation must be for a purpose which satisfies a bona fide or genuine agency need existing during the year in which the obligation is made.

Other Federal statutes reinforce the significance of the time limitation in congressional appropriations. Noteworthy among these are the Adequacy of Appropriations Act (41 U.S.C. 11) and the Anti-Deficiency Act (31 U.S.C. 665).

The statutes cited above have been broadly applied to preclude contractual agreements requiring direct obligations in excess or in advance of appropriations and any other obligation or liability which may ultimately arise and require the expenditure of funds (42 Comp. Gen. 272 (1962)). As a result, the duration of Federal contracts is closely related to the appropriations process.

#### MULTIYEAR CONTRACTING

A multiyear contract entitles the Government to purchase services or supplies from the contractor for more than 1 year. The parties are released from their mutual obligations only upon termination of the contract. A multiyear contract differs from a single-year contract with options for continuation beyond 1 year in that the latter gives the Government the choice of continuing the contract beyond 1 year but does not give the contractor any assurance that the Government will do so. Unless the Government takes positive action to exercise the option, the contract will expire. Not knowing whether the contract will be renewed, the contractor has no inducement for price concessions.

Multiyear contracting authority is often granted for special projects such as research and development and major acquisitions through funding for more than 1 year or statutory provisions. It is now used by agencies which have either no-year or multiple-year appropriations or special statutory authority. Specific uses have been provided by the Congress; for example, Public Law 90-378 (10 U.S.C. 2306(g)) permits the military departments, the National Aeronautics and Space Administration, and the Coast Guard to award multiyear contracts for overseas service-type requirements. However, funds may be obligated only for the current fiscal year. If funds are not made available for the contract in the subsequent fiscal years, costs of cancellation would have to be paid. In this regard, we favor legislation authorizing no-year or multiple-year appropriations for agency use.

### SCOPE OF REVIEW

We examined the statutory limitations on multiyear procurement and special legislative provisions for its use. We also reviewed existing rules and procedures set forth in the Armed Services Procurement Regulation and the Federal Procurement Regulations.

We reviewed and analyzed single-year and multiyear contract data on selected contracts and discussed multiyear procurement with officials at the following agencies in the Washington, D.C., area:

Agricultural Research Service, Department of Agriculture  
Federal Supply Service, General Services Administration  
Washington Area Procurement Center, Department of the  
Air Force  
Defense Fuel Supply Center, Defense Logistics Agency

We also contacted other officials of the above departments and agencies in order to identify estimated savings on current multiyear contracts and determine the potential for additional savings. We contacted a limited sample of contractors and representatives of contractor organizations and associations and met with officials in the Office of Federal Procurement Policy of the Office of Management and Budget and the Small Business Administration to discuss the need for and desirability of general multiyear contracting authority for Federal agencies.

We discussed with each procurement activity visited those comments in the report relating to that agency and discussed the report with officials of the Office of Federal Procurement Policy. The period covered for our review was December 1976 to June 1977.

## CHAPTER 2

### MULTIYEAR PROCUREMENT OFFERS

#### OPPORTUNITIES FOR SIGNIFICANT SAVINGS

The Commission on Government Procurement report stated that the Department of Defense (DOD) had estimated annual savings exceeding \$52 million on multiyear procurement for fiscal years 1968 through 1973. These savings resulted from spreading nonrecurring administrative costs over several years, the purchase of supplies and services for more than 1 year, and the increased efficiency of a stable labor force.

We found cost savings continue to accrue from the use of multiyear contracting. In addition, the potential exists for additional savings in contract costs and agency administrative costs if general multiyear contracting authority for supplies and services is given to Federal agencies.

#### ESTIMATED SAVINGS ON MULTIYEAR PROCUREMENT

We identified annual savings of \$3 million on 26 contracts at two agencies as a result of multiyear contracting. These contracts have an annual cost of \$14 million. The savings do not include possible administrative savings due to the reduced number of contracts involved.

In addition, estimated administrative savings of \$2 million were identified by the General Services Administration (GSA) for 70 multiyear public utility contracts awarded by GSA or by other agencies with GSA's assistance.

#### Contract savings

The Armed Services Procurement Regulation (ASPR) procedure for multiyear contracting provides for Department of Defense solicitation of prices based either on award of the current 1-year program quantity or on the total multiyear quantities. This procedure enables the Department to identify contract cost advantages for multiyear procurements. Such procedures are not required in civilian agencies under the Federal Procurement Regulations.

A review of data on 26 long-term contracts at two DOD agencies indicated estimated annual contract savings of \$3 million as a result of initial multiyear awards. The table below summarizes the savings:

<u>Agency</u>	<u>Number of contracts</u>	<u>Annual cost</u>	<u>Estimated annual savings</u>
Defense Fuel Supply Center	15	\$ 5,800,000	\$2,600,000
Air Force	<u>11</u>	<u>8,200,000</u>	<u>400,000</u>
Total	<u>26</u>	<u>\$14,000,000</u>	<u>\$3,000,000</u>

#### Defense Fuel Supply Center

The Defense Logistics Agency's (DLA's) Defense Fuel Supply Center has 15 multiyear contracts, primarily in the service area.

Six of the 15 DLA contracts provided storage and maintenance of bulk fuel at Government-owned, contractor-operated terminals. The Center awarded one of these contracts during fiscal year 1976 at an estimated annual cost of \$329,000 and the five additional contracts subsequent to June 30, 1976, at an estimated annual total cost of \$1.1 million. These six contracts will provide annual savings of about \$53,000 over the contractors' single-year bids, or about \$265,000 over their 5-year terms.

Eight of the 15 multiyear awards costing about \$1.2 million for fiscal year 1976 were for the storage and maintenance of bulk fuel at contractor-owned, contractor-operated terminals. According to Center officials, the majority of these contracts were awarded under special legislation in the late 1950s and early 1960s for an initial 5-year period at a firm-fixed price, plus a series of subsequent 1- to 5-year renewal options and options to purchase the terminals at the expiration of the contracts. The officials said these contracts were awarded at a time when the fuel supply and fuel storage markets were stable and prices relatively low. While the demand and prices for fuel and fuel storage have increased, these long-term contracts enabled the Government to obtain fuel storage facilities at a unit price in fiscal year 1976, which averaged 63 cents less than the unit cost of similar single-year storage facilities. The estimated annual savings on the eight long-term contracts over similar single-year contracts totaled \$2.1 million.

The remaining long-term contract--a coal supply contract--will produce savings of \$409,000 annually, or \$2 million over the life of the contract based on the difference between annual and multiyear bid prices.

## Air Force

Currently, the Air Force has 49 active multiyear contracts totaling over \$470 million. Eleven of the contracts, costing about \$8.2 million annually, provide annual savings of about \$404,000 over similar single-year procurements based on comparative bids from the contractors. The contracts involve requirements for services and supplies, such as garbage collection, equipment maintenance and repair, liquid fuels and ground servicing equipment. Collectively, the 11 contracts, with terms varying from 2 to 5 years, provide an estimated savings to the Government of \$1.6 million over the length of the contracts based on the difference between the single-year and multiyear bids. Comparative cost data for the remaining active multiyear contracts was not readily available.

### Administrative savings

Agency officials contacted agreed that administrative savings could accrue under multiyear procurement when procuring agencies are not faced with annual contract award or renewal. The administrative cost savings for the specific contracts mentioned above was not readily identifiable. However, information was available with respect to administrative savings on General Services Administration (GSA) multiyear contracts for public utilities.

GSA has special statutory authority in accordance with Section 201 of the Federal Property and Administrative Services Act, as amended (40 U.S.C. 481), to enter into long-term contracts for public utility services on behalf of all Federal executive agencies for periods not exceeding 10 years. From July 1975 through June 1977, GSA awarded or assisted other agencies in the award of 77 public utility contracts at an estimated administrative cost of \$255,000. Seventy of the contracts were multiyear, generally with a 10-year duration. The cost of establishing these contracts does not recur annually, thereby saving an estimated \$2 million over the contract years after the first. GSA stated that there would be additional savings if the amount saved by user agencies that it assisted was included.

### OPPORTUNITIES FOR ADDITIONAL SAVINGS THROUGH MULTIYEAR PROCUREMENT

Officials at GSA, DLA, and the Departments of the Air Force and Agriculture generally agreed that numerous potential opportunities existed to realize savings through multiyear contracting for supplies and services. These savings



can be obtained through contract price reductions and the elimination or reduction of administrative costs.

### Potential contract savings

An estimate of savings is generally not readily available without comparative pricing data or discount offers from contractors. However, we did identify several instances for potential savings through multiyear contracting.

We analyzed a sample of 127 annual procurements at the four agencies included in our review. The contracts were identified by agency officials as having potential for multi-year procurement and included requirements such as equipment repair and maintenance, laundry services, food service, janitorial services, photocopying and communications equipment, photographic services, beverage supplies, automobile parts, and fuel storage facilities. All of the contracts analyzed were providing recurring needs. Fifty-three percent included renewal options or were in the last option year, and 87 percent had remained with the same contractor for 2 or more years, consecutively. Our analyses indicate that many of these contracts may lend themselves to multiyear procurement.

Our discussions with 14 contractors included in our sample (see p. 11), other than those offering photocopying and communications equipment, revealed that 6 either would offer discounts if their contracts were multiyear or believed that, generally, multiyear contracting would provide cost benefits to the Government. Two additional contractors would offer discounts with multiyear procurement if minimum orders could be guaranteed. Four contractors felt they could not offer the Government a price advantage. Two contractors were unsure of the effect of multiyear procurement on price.

We found that GSA administers approximately 390 single-year janitorial contracts costing \$43 million and approximately 2,000 single-year trash removal contracts costing about \$7 million. Analysis by GSA officials indicates savings of \$1.6 million annually if the contracts could be awarded for 4-year terms. This would amount to savings of \$6.4 million over the life of the contracts. The estimated savings would accrue from longer equipment amortization periods, reduced administrative requirements prior to contract award and improved operational efficiency through continuity in contract management, lower employee turnover, and reduced training costs to the contractors.

During our review at GSA's Federal Supply Service (FSS), we examined three photocopying equipment contracts and three communications equipment contracts with lease provisions. All three communication equipment contracts and one photocopying equipment contract contained optional plans offering substantial discounts through multiyear contracting. The per unit rental in one communications equipment contract ranged from \$2.27 per month for equipment valued at \$25, when rented for 1 year, to \$0.49 per month when rented for 84 months. Under the terms of this contract, an agency would be liable only for the maximum 12-month rental rate should a longer term lease be canceled after the first year. Due to statutory restrictions, agencies using annual appropriations and contracting for photocopying services and communications equipment from Federal supply schedule contractors cannot take advantage of the price savings offered through multiyear leasing opportunities.

#### Potential administrative savings

We obtained administrative cost estimates for annual contract awards from the Air Force's Washington Area Procurement Center and the Agricultural Research Service. Officials of these agencies identified 138 recurring service and supply contracts with an annual cost of about \$12.5 million which they believed could provide benefits to the Government through multiyear procurement. Forty-one of these contracts were included in the 127 contracts we analyzed. (See p. 8.)

Officials at the Air Force's Washington Area Procurement Center estimated the administrative cost of award at \$3,137 per contract, including the cost of the required engineering review. Based on officials' estimates that 71 contracts are susceptible to multiyear procurement, administrative savings of as much as \$222,727 could be achieved for each contract year after the initial award of multiyear contracts.

Officials at the Agricultural Research Service estimated the average cost of contract award at \$200, which includes only the costs of the procurement activity itself. The officials stated that, after the initial award of a multiyear contract, annual administrative requirements, such as price adjustments, would involve costs of about \$45 per contract, resulting in an estimated savings of \$155 per contract. When applied to the 67 contracts, which officials believe could provide benefits through use of the multiyear procurement technique, administrative savings could total as much as \$10,385 for each contract year after the initial award of the multiyear contracts.

While we recognize that actual savings to the Government are dependent on a wide variety of possible actions that could be taken by the procurement activities, we believe that there is good potential for administrative cost savings from multi-year procurement.

## CHAPTER 3

### MULTIYEAR PROCUREMENT: BENEFITS AND PITFALLS

Federal Government officials, large and small businessmen, and representatives of contractor organizations contacted during our review generally perceive multiyear contracting with annual appropriations as an additional procurement method beneficial to both the Government and the contractor. The Office of Federal Procurement Policy (OFPP), Office of Management and Budget, supports legislation enabling multiyear procurement by Federal agencies. OFPP officials view multiyear contracting as an appropriate procurement method for acquiring service and supply needs. Small Business Administration (SBA) officials also support general multiyear procurement authority and view multiyear contracting as particularly beneficial in the area of service requirements. SBA officials believe the combination of multiyear contracts and small business set-asides could result in cost savings to the Government and assist the small businessman in becoming more competitive.

Representatives of 18 service and supply contractors we contacted generally favored multiyear procurement by Federal agencies. Fourteen of the respondents, including 9 of 12 small business contractors, supported multiyear procurement, while 2 did not favor it and 2 were unsure. One of two contractors not favoring use of multiyear contracting cited as his reasons fluctuations in the economy and inflation. The other contractor noted that, for his industry, he believed multiyear procurement provided no cost savings to either the Government or the contractor. These two contractors and the two unsure of the propriety of multiyear procurement provide supplies to the Government rather than services.

In addition to contractors interviewed, representatives of three contractor organizations contacted generally supported the multiyear procurement concept. The organizations represent the interests of small business service contractors, trash collectors and manufacturers of trash collection equipment, and the capital goods industries. Each of the organizations include members having some business with the Federal Government. Spokesmen for the organizations expressed support for multiyear procurement based on personal perceptions and/or a limited survey of member firms. Representatives of two organizations believed multiyear contracting would increase competition and could provide

cost savings to the Government while representatives of the third gave no opinion.

### BENEFITS OF MULTIYEAR CONTRACTING

In addition to the savings in contract prices and administrative costs previously discussed, the following advantages were cited by agency officials and contractors for using multiyear procurement in lieu of annual contracts.

The quality of performance and service from contractors could increase. Contractor performance may be improved by reducing the uncertainty of continued Government business; providing continuity in the delivery of recurring service and supply needs; and enabling the contractor to maintain a stable, well-trained workforce.

Some procurement officials and contractors interviewed noted that the quality of contractor performance under single-year procurements can decrease near the end of the contract term. One reason given was that a single-year contractor may begin gearing down operations due to the uncertainty that his contract will continue. According to a representative of one contractor organization, single-year procurements offer fewer incentives for quality performance by contractors than multiyear contracts. He stated that it takes about 6 months for a Government agency to determine the level of performance that can be expected from a contractor and, when it is poor, the Government often will not begin default actions with only 6 months remaining in the contract term. Multiyear procurement would reasonably assure the contractor of continued Government business. Several officials stated that a longer contract would make default actions more cost effective, thereby increasing the willingness of Federal agencies to default poorly performing contractors. Consequently, the officials believed that contractors would be encouraged to maintain a quality level of performance.

Officials also pointed out that a change in single-year contractors can result in at least a temporary decrease in the quality of contractor performance. This problem was reported to usually occur during the period of gearing down operations by the incumbent and startup operations by the successor contractor. According to some officials, the new contractor faces learning curve considerations in terms of familiarity with the Government's requirements and employee training which must be overcome before a quality performance

level is reached. Multiyear procurement should reduce the frequency of contractor changeovers and eliminate year-to-year decreases in contractor performance during the contract term. Also, some officials believe the assurance of continued Government business would enable the contractor to maintain a stable, well-trained workforce and avoid decreases in performance due to a changing workforce.

Federal Supply Service officials believe multiyear contracting authority can improve the ability of procuring agencies to provide for recurring supply requirements. They stated that the necessity of awarding annual contracts, often to different suppliers, sometimes breaks the supply chain, resulting in a backlog of orders. Also, they believe multiyear procurement would facilitate contracting for spare parts to insure continuing availability.

#### Competition for Government contracts could increase.

Federal officials and representatives of one contractor association generally agreed that multiyear procurement could encourage competition by providing a longer time period for investment amortization. One contractor association representative stated that many contractors in areas requiring heavy capital investment will not bid on annual contracts because startup costs cannot be recovered during the contract terms. The longer amortization period will particularly encourage small business participation in Government procurements. Several officials believed that high investment costs for single-year procurements sometimes prevent small business participation. One official said this results from the reluctance of lending institutions to provide financial support based on short-term commitments. Some officials noted that by extending the Government's commitment to the contractor, multiyear procurement could encourage financial assistance for the small businessman, enabling him to improve his competitive position.

In April 1964, our Office responded to SBA questions on the legality of DOD multiyear procurement procedures in terms of requirements under the Small Business Act (15 U.S.C. 631(a)). We stated that the DOD procedure did not violate the Small Business Act but did, in fact, help small businessmen by giving them a chance to prorate their startup costs over a longer period of assured business (43 Comp. Gen. 657, (1964)). Also the DOD multiyear procedure could be used for small business set-asides, which are procurement techniques normally favorable to small business. SBA officials currently

support multiyear contracting and believe that if the procurement technique is combined with set-asides, both the Government and the small businessman will benefit. They believe, in addition, that multiyear contracting will be helpful to the 8(a) procurement program in assisting disadvantaged small businessmen to become self-sufficient.

#### PITFALLS OF MULTIYEAR CONTRACTING

In addition to the advantages discussed, agency officials and contractors cited several possible disadvantages in the multiyear procurement method which are discussed below.

The savings potential in multiyear contracting could be offset by inflation and/or the cost of administering any contractual provision for price adjustment. Some agency officials stated that if market conditions are unstable, price indices may not adequately reflect changing economic conditions or may be so complicated to administer that administrative costs exceed expected savings on the contract. One procurement official noted that, without adjustment clauses, fixed-price multiyear contracts will probably include high contingency factors in the prices to offset contractors' expectations of future inflationary trends. Furthermore, according to some officials, unstable market conditions may reduce competition in multiyear solicitations when contractors are so uncertain about future conditions that they will not lock themselves into a long-term contract.

While price adjustment is reported to be a problem in areas such as fuel procurement, it has not seriously hindered agencies with multiyear procurement authority from entering into or reaping the benefits of longer term contracts in many other procurement areas. Officials indicated that while price adjustment clauses are essential in most cases, an index is available for many wage intensive agency requirements which is not unduly complex to administer. Contractors responding to questions on the need for price adjustment provisions in multiyear contracts expressed the belief that such provisions are necessary in multiyear procurements.

Agencies could be locked into prices that may subsequently decrease. Some procurement officials expressed concern that an economic downturn or technology breakthrough may result in reduced prices for a product or service which are unavailable to the Government due to a multiyear contract commitment. However, the Federal Procurement Regulations and the ASPR indicate that price adjustment clauses provide for both upward and downward price adjustments.

Effective competition may decrease. Several officials noted that although there may be more competition for multi-year contracts in the year of award, the number of opportunities to bid will be reduced by the number of years the contract is in effect. Some contractors may not be able to survive the years between awards.

In addition, some agency officials noted that a contractor who amortizes his initial investment during the multiyear contract period may have a price advantage over new competitors in later solicitations. Because other offerors need to include initial startup costs in their prices, their bids may not be competitive with the incumbent's. The incumbent may then be in a position to raise prices and still be assured of this award. This condition is called "buying in" and can also occur in single-year procurements. One official noted that the potential for buying in may continue to exist with multiyear contracting but will have less likelihood of occurring than in single-year procurements.

Early termination of multiyear contracts would require the payment of cancellation charges, which may offset savings. Some agency officials noted the need for a cancellation ceiling on multiyear contracts to protect the Government and the contractor. The ASPR contains a cancellation provision which allows reimbursement to the contractor for unrecovered nonrecurring costs which were initially spread over the entire multiyear contract. This cancellation may negate any estimated savings on multiyear procurements. In addition, the officials believe that if appropriations are required to be set aside by law to cover all cancellation clauses, funds only needed in those unusual cases when cancellation occurs would be unnecessarily tied up. Based on experience to date, the likelihood of termination of many multiple-year contracts appears remote due to the continuing need for the goods and services involved.

#### CONTRACTS WITH OPTIONS--ADVANTAGES AND DISADVANTAGES

Some of the pitfalls of multiyear contracting can be overcome by using a single-year contract with options for renewal. Under the options contract method, the Government agency can terminate or renew the contract at the end of the 1-year period. Consequently, agencies using contracts with renewal options are not locked into prices as they might be under the multiyear contract, and the potential for payment of cancellation costs due to early termination is reduced.



Option contracts, on the other hand, may not take advantage of the benefits possible under multiyear contracts. For instance, contractors can spread their costs out on multi-year contracts, and this is reflected in their bid price. However, under option contracts, the contractor is uncertain if the contract will be renewed; therefore, his bid must reflect this uncertainty, and prices are likely to be higher than they would have been under a multiyear contract. Similarly, administrative cost savings accruing to multiyear contracts are likely to be sacrificed under option contracts--before the contract option is exercised, the contracting agency must assure itself that this is the best deal for the Government. To do this, the agency must "test the market," which may mean resolicitation for bids and thus an increase in the administrative costs of the option contract.

### NEED FOR CRITERIA

Criteria and procedures are needed to guard against potential disadvantages and to serve as a guide for using multi-year procurement. Generally, procurement officials believe that the following criteria must be met before entering into a multiyear contract. There must be:

1. Potential savings to the Government through contract cost reduction and/or increased operational efficiency.
2. A recurring need for a service or supply.
3. Known quantities required.
4. Specifications not subject to frequent change.

In addition to the above criteria, agency officials suggested criteria for consideration in the use of multiyear procurement which they believe might identify procurements that would lend themselves to multiyear contracting. These included the need for continuity in providing an essential service or supply, substantial investment in plant or equipment, and other high startup costs, such as extensive training of contractor personnel. Also, the officials believe consideration should be given to market stability and the means to provide for changing economic conditions through price adjustment clauses.

Many of the criteria identified by agency officials in our review correspond to criteria for multiyear contracting set forth in the ASPR. ASPR, section 1-322, provides a

basic framework for multiyear procurement by Defense activities and established criteria, including the following, for multiyear supply contracts.

- Anticipated reduced unit prices.
- Known quantities.
- Specifications not expected to change significantly.
- Reasonable expectations that effective competition can be obtained.
- Items being procured are not adequately available in the commercial market.

Similarly, the ASPR requires, in part, that multiyear service contracts not be awarded unless:

- There is and will be a continuing requirement for the services.
- The furnishing of the services requires a substantial initial investment in plant or equipment or other substantial expense or liability.
- The use of a multiyear contract will encourage effective competition and promote economies of operation.

The ASPR requires that all applicable criteria be met before awarding a multiyear supply or service contract. Officials at one agency stated that in some cases they could be restricted from entering into multiyear contracts which would be beneficial to the Government because not all of the ASPR criteria can be met. The criteria identified in our review should provide adequate control while also adding increased flexibility to using multiyear procurement when it is in the Government's interest.

In addition to the criteria noted above, we identified two areas relating to multiyear contracting which require special consideration. These are the need to provide for cancellation costs and the maximum length of a multiyear contract.

#### Cancellation costs

Cancellation of a multiyear contract could occur due to the unavailability of funds. ASPR multiyear procedures include a provision allowing reimbursement of the contractor

for unrecovered nonrecurring costs included in the prices of canceled requirements. Before solicitations, the contracting officer establishes a cancellation ceiling, which is applicable to each year of a multiyear contract except the first. The ceilings cover the contracting officer's estimate of reasonable startup and other nonrecurring costs and may be expressed as the percentage of estimated unamortized nonrecurring costs and the percentage of requirements for each program year.

Several officials contacted during our review expressed the view that while cancellation ceilings are needed to protect the interests of the Government and the contractor, a requirement to fully fund cancellation ceilings from appropriations would severely reduce the effectiveness of multiyear contracting as a procurement tool by discouraging its use. Officials at OFPP stated that only a small percentage of multiyear contracts are canceled. Consequently, a full funding of cancellation ceilings would unnecessarily tie up appropriated funds and should not be required.

Legislation (Public Law 90-378), which provides DOD, NASA, and the Coast Guard with authority to award multiyear contracts using annual appropriations for services outside the contiguous United States, provides that if funds are not made available for the contract in subsequent fiscal years, cancellation costs can be paid from appropriations originally made available for the contract, from appropriations currently available for the type of service concerned and not otherwise obligated, or from funds appropriated for payment.

#### Maximum length of contracts

Public Law 90-378 provides a maximum 5-year term for multiyear contracts. Agency officials, contractors, and representatives of contractor organizations contacted during our review did not agree on an optimum time frame for multiyear procurement of general services and supplies. Some officials believed that the length of a contract term would depend on the individual procurement. However, OFPP officials stated that generally multiyear contracts should be limited to a maximum duration of 5 years.

## CHAPTER 4

### CONCLUSIONS, RECOMMENDATION, AND AGENCY COMMENTS

#### CONCLUSIONS AND RECOMMENDATION

Federal agencies with either funding or statutory authority for multiyear procurement are currently benefiting from reduced contract prices and other advantages. Based on discussions with agency officials and review of selected contracts at the four procurement activities visited, we believe that there is substantial potential for further use of multiyear procurement.

We believe that the advantages of the multiyear procurement technique identified by agency officials outweigh the disadvantages and that the disadvantages can be minimized and control enhanced through adherence to appropriate criteria for use of multiyear procurement. We recommend that the Congress enact legislation authorizing multiyear procurement for Federal agencies and provide for OFPP to:

- Develop appropriate criteria for use of the procurement method.
- Require responsible agency officials to determine when the criteria are met.
- Provide for the payment of cancellation costs.

#### AGENCY COMMENTS

We received comments on this report from the OFPP, the Defense Logistics Agency, and the General Services Administration. All the agencies agreed that general multiyear contracting authority for goods and services would be advantageous. Excerpts from the agency responses contained in appendixes I through III follow.

#### OFPP

OFPP concurred with the conclusions and recommendations and supporting discussion contained in the report. In addition to the benefits accruing from multiyear contracting authority which we cited in chapter 3, OFPP added that multiyear procurement would directly benefit workers by providing

greater continuity and stability of employment under long-term contracts.

DLA

DLA agreed that generally the advantages of using multi-year contracting procedures outweigh the disadvantages and that, with proper regulatory controls, substantial savings can be realized through their use. It added that removal of the statutory funding constraints on multiyear contracts would greatly increase the use of such contracts throughout the Federal Government.

General Services Administration

GSA stated that, for many years, it has supported multi-year contracting as a savings measure in the best interest of the Federal Government. It added that multiyear contracting authority for repair and rehabilitation contracts would particularly benefit small businessmen. According to GSA, new competitors now find it difficult, if not impossible, to enter the field because of the risks involved in not holding the contract long enough to recoup capital and training costs. Multiyear contracts would allow small business a chance to prorate startup costs over a longer period of assured business.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

OCT 11 1977

Mr. R. W. Gutmann  
Director, Procurement and Systems  
Acquisition Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Gutmann:

This is in reply to your letter of September 15, 1977 requesting comment on your draft report to the Congress entitled "Federal Agencies Should Be Given General Multiyear Contracting Authority For Supplies and Services."

Your report concludes that the advantages of multiyear procurement outweigh the disadvantages which can be minimized by appropriate criteria for its use, and recommends that Congress favorably consider legislation authorizing multiyear procurement under criteria, procedures, and provisions for cancellation costs to be developed by the Office of Federal Procurement Policy.

I concur in the conclusions and recommendations and in the general discussion in support thereof. You may wish to note that in addition to the benefits accruing to the Government and contractors in the form of savings in contract performance, increased quality of contract performance and services, and increased competition for Government contracts, multiyear procurement directly benefits workers by providing greater continuity and stability of employment under long-term contracts.

Sincerely,

  
Lester A. Fettig  
Administrator



LOGISTICS  
 DEFENSE LOGISTICS AGENCY  
 HEADQUARTERS  
 CAMERON STATION  
 ALEXANDRIA, VIRGINIA 22304

IN REPLY  
 REFER TO

DIA-PPR

Honorable Elmer B. Staats  
 Comptroller General of the United States  
 General Accounting Office  
 Washington, D. C. 20548

Dear Mr. Staats:

The 15 September 1977 GAO draft report to the Congress entitled "Federal Agencies Should Be Given General Multi-Year Contracting Authority for Supplies and Services" has been reviewed with considerable interest within the Department of Defense (DoD).

DoD concurs in the belief expressed in the draft report that generally the advantages of using the multi-year contracting procedure outweigh the disadvantages and, with proper regulatory controls, substantial cost savings can be realized through use of the procedure. As reflected in the report, many single-year contracts are awarded by DoD components that, but for statutory and regulatory restrictions, could be converted to multi-year status.

The major statutory constraint is that, with certain exceptions, only no-year or multiple-year appropriations may be used to fund multi-year contracts. The removal of this restriction by Congress would greatly increase the use of multi-year contracts throughout the Federal Government.

The opportunity to comment on your report is appreciated.

Sincerely,

A handwritten signature in black ink that reads "W. W. Vaughan".

W. W. VAUGHAN  
 Lieutenant General, USA  
 Director



UNITED STATES OF AMERICA  
GENERAL SERVICES ADMINISTRATION  
WASHINGTON, DC 20405

November 10, 1977

Honorable Elmer B. Staats  
Comptroller General of the United States  
U. S. General Accounting Office  
Washington, DC 20548

Dear Mr. Staats

Thank you for your letter of September 15, 1977, transmitting your draft report to the Congress entitled "Federal agencies should be given general multiyear contracting authority for supplies and services" (B-160725). GSA has for many years supported multiyear contracting as a cost savings measure in the best interest of the Federal Government.

There are currently two bills in Congress dealing with multiyear procurement authority. One would give all Federal agencies general multiyear contracting authority for periods not to exceed 5 years. This bill would not supersede our present statutory authority to enter into long-term contracts for utility services on behalf of all Federal executive agencies for periods not exceeding 10 years. The second bill would give GSA exclusive ADP multiyear procurement authority for 10 years or less by authorizing use of the automatic data processing fund to enter into multiyear contracts without obligating total anticipated payments in the first year. We generally support these two legislative proposals.

Additional comments of a general nature are offered in the enclosure to this letter.

We appreciate the opportunity to review and comment on this report.

Sincerely,

  
JAY SOLOMON  
Administrator

Enclosure

*Keep Freedom in Your Future With U.S. Savings Bonds*



**GSA Comments on GAO Draft Report to the Congress  
"Federal Agencies should be given general multiyear  
contracting authority for supplies and services"  
(B-160725)**

**Repair and rehabilitation services.**

The benefits accruing to the Government if multiyear contracting authority was approved for repair and rehabilitation contracts are threefold:

1. There would be a reduction in costs related to contract awards;
2. There would be continuity of service; and
3. Contractor performance would improve.

Greater benefits would accrue, however, to the small businessman. Ninety percent of our contracts in this area are awarded to small business firms. New competitors now find it difficult, if not impossible, to enter the field because of the risks involved in not holding the contract long enough to recoup capital and training costs. Enactment of this authority would give the small businessman a chance to prorate starter costs over a longer period of assured business.

**Public utilities services**

Page 9 of chapter 2 references our statutory authority to enter into long-term contracts for utility services. We suggest the first sentence of the last paragraph be expanded to read:

GSA has special authority in accordance with the Federal Property and Administrative Services Act, as amended (40 U.S.C. 481, Sec. 201) to enter into long-term contracts for utility services on behalf of all Federal executive agencies for periods not exceeding 10 years.

**Recommendation**

We recommend that OFPP:

- develop appropriate criteria for use of the procurement method;
- require agency heads to determine when the criteria are met; and

-- provide for the payment of cancellation costs, not limited to annual appropriations.

Part two of this recommendation requires the "agency head" to determine when criteria are met. We believe that this determination could be made by "responsible agency officials" rather than the agency head and recommend, therefore, that this portion of the recommendation be so revised.