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Statement of

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before the

TASK FORCE ON GOVERNMENT EFFICIENCY
COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES

HSE 00805

ON

[THE EFFECT OF OMB CIRCULAR A-109
ON MAJOR SYSTEMS ACQUISITION AND
THE USE OF COMPETITIVE PROCUREMENT
IN THE DEPARTMENT OF DEFENSE]



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Mr. Chairman and members of the Task Force:

I am pleased to have this opportunity to discuss (1) GAO's observations on the effect of OMB Circular A-109 on the acquisition of major weapon systems and (2) the use of competitive procurement by the Department of Defense. *AGC000027*
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The funds needed to acquire major weapon systems will have a big impact on future budgets. The impending "bow wave" in defense funding requirements is real. The current cost estimates for Department of Defense procurement is estimated to be over \$560 billion. If we assume a rather modest projection of 30 percent cost growth, which is less than DOD is experiencing now, the procurement cost could climb to \$725 billion. Assuming a relatively long 10-year procurement time, we can see that DOD will need \$72 billion per year for procurement. This amount is twice as large as the appropriation requested for the Fiscal Year 1980 procurement programs.

To briefly summarize my comments this morning

1. A-109 establishes the Administration's policy and procedures for acquiring major weapon systems. The General Accounting Office supports the findings and recommendations of the Commission on Government Procurement and the intent of OMB Circular A-109 in implementing the Commission's recommendations.

2. The Department of Defense has been slowly implementing A-109. Despite top level encouragement, some reluctance to comply with the directive still appears to exist, particularly in seeking solutions to weapon system needs through the use of competition, which is one of the key features of the directive.
3. The extent of competition in Department of Defense contract awards has decreased in recent years.
4. The Government policy which requires Federal agencies to buy commercial products instead of items manufactured to Federal or military specifications was to be fully implemented by August 1979. DOD along with the other Federal agencies did not meet the deadline.

HISTORY OF A-109

Problems with the development and procurement of costly and complex weapon systems have troubled the Executive Branch and the Congress since the 1950s. Cost overruns, contractor claims, contested awards, and disappointing system performance were among the sore points endlessly discussed and criticized without real resolution. In November 1969, the Congress created the Commission on Government Procurement to find a solution to these and other procurement problems. The Commission

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identified the underlying problems as:

- Confused and overlapping roles among contractors, agency administrators, the Congress, and others, resulted in diffused responsibilities, poor accountability, and badly skewed buyer/seller relationships.
- Absence of a coherent acquisition-process framework which all parties could understand and commonly refer to.
- Lack of agency and congressional preview of the early key decisions that define the character of all new weapon system programs; which resulted in foreclosed options, decisions by default, and out-of-control acquisition programs.

To correct these problems the Commission made recommendations in twelve areas of major acquisition management. The executive branch accepted the Commission's proposals and conveyed them to its agencies in OMB Circular A-109 which was published in April 1976.

IMPACT OF A-109 ON DOD'S ACQUISITION POLICIES

While A-109 stems from the Commission's recommendations, it also represents to some extent in DOD an evolutionary outgrowth of DOD policy and practices that had been developed over the years.

There were two significant changes which A-109 made in DOD's management of major weapon system acquisition

programs. The first change was the requirement for a mission related approach and agency head approval to start a new weapon system acquisition program. The second change was the requirement for an extended use of competition beginning early and continuing through the system acquisition process as long as it is economically beneficial. I will briefly discuss each of the changes.

Establishing the Mission Need

The military services must determine their need for new weapons by systematic analysis of their missions. They convey their needs to the Secretary of Defense who, as head of DOD, must approve all proposals to start new weapon system acquisition programs. This decision must be based on confirmation that a military equipment deficiency exists or is anticipated. This mission related analysis by the Services and approval by the Secretary that a deficiency exists before starting a program is critically important to preclude and cut down on faulty program starts and unnecessary programs. It allows the head of the agency and Congressional committees to decide about the need for new weapon systems prior to the large committment of monies.

Critics of A-109 complain that the directive and its front end review requirement is only adding more time to an acquisition process that is already too long.

While we support A-109, its true impact on acquisition management can not be determined until sufficient experience is acquired through implementation. All of us need to know more about the effects of (1) determining and confirming what is needed through mission analysis and (2) obtaining the Secretary of Defense's approval of the need for a new acquisition. Compliance with the management practices prescribed by A-109 holds out the promise of less program stretchouts, less program cancellations, better budgeting of funding requirements, less cost overruns, and better weapon systems. All of these benefits could be the direct result of better planning at the front end of the acquisition process to assure that only those systems that are needed are initiated.

Using Competition

The intent of A-109 is to have the military services express their needs in functional terms for the purpose of increasing competition and attracting a number of different solutions from contractors and government laboratories. The purpose is to benefit from the innovativeness of industry and eliminate the Services' tendency to focus prematurely on one technical approach. After the proposed solutions are evaluated and the best ones are selected; parallel, short-term contracts are awarded for competitive exploration and evaluation in order to narrow the alternatives

to those deemed most appropriate for competitive demonstration. Ideally this demonstration would be head-to-head contractor competition.

In some instances competitive demonstration may not be appropriate for weapon systems such as an aircraft carrier, although it would be for subsystems aboard the ship. In some instances a single system solution may be most appropriate. A-109 is flexible and allows such exceptions subject to agency head approval.

After the competitive demonstrations of proposed solutions are completed and factors such as acquisition and ownership costs, risks, and contractor competence are considered, the most competitive solution or solutions are selected for full-scale development.

Sometimes there may be factors limiting competition. The modern weapon system is complex and technically sophisticated. Sometimes there are only a limited number of potential suppliers either with the skill, facilities, or inclination for government business. This limits competition. For example, there are only two U.S. jet engine manufacturers with experience building large jet engines for aircraft. Thus, the opportunity for competition is limited. Similarly, the Army experienced difficulties a few years ago, when it attempted to accelerate M60 tank production, because only one U.S. manufacturer was available for casting the tank's steel turrets.

We cite these examples to show that competition is not always readily available. However, this should not discourage the Government's efforts to obtain competition. Competition is one of the mainstays of our economic system and usually provides the best product at the best price. It is for this reason that we encourage the use of competition as envisioned by A-109, while admitting that at times there are handicaps to securing extensive competition.

DOD COMPLIANCE WITH A-109

Let us turn now to our observations on DOD's compliance with A-109.

Although A-109 is over 3 years old (April 1976), experience is still too limited to permit a complete assessment of its effect on DOD. The life of weapon system programs often run 8 to 12 years and even beyond. Not enough programs have begun or progressed far enough under A-109 procedures to accurately measure the directive's full effect. As I stated earlier, the new policy and procedures of A-109 have the most impact on the front end of weapon systems programs, but the benefits are more fully realized later. As of October 9, 1979, the Secretary of Defense had approved ten new programs since A-109's Milestone zero review was adopted as DOD policy in January 1977. Six of these were approved since May 1979. They have not progressed far enough to permit an assessment.

We have noted that the Secretary of Defense has taken as much as five months to approve new programs. We believe the Secretary's review may be taking too long and may be adding fuel to the charge of A-109 increasing acquisition time. We have noted that most officials of the Office of the Secretary of Defense are involved and knowledgeable about new proposals well before they are submitted by the Services.

Regardless of the inability to assess benefits of A-109 at this time, we can make some observations on DOD's compliance with the directive. We reviewed DOD's implementation of A-109 last year and concluded that it had been slow in adopting and complying with the OMB Circular. We believe DOD has since improved it's progress some, although continued attention is needed. The Secretary of Defense, Deputy Secretary of Defense and the Department's Acquisition Executive have been expressing favorable support and they are encouraging compliance. This may account for much of the improvement. Nevertheless, more still needs to be done.

Revise DOD and Service Directives
to Comply with A-109

There are DOD and Service directives that still need to be revised to provide the proper guidance for compliance with A-109. The basic DOD policy directives, 5000.1 and 5000.2, on major acquisition management have

been under review for the past 18 months or so to determine changes needed to further implement A-109, but have not yet been revised.

The importance of Service directives should not be underestimated. Service personnel usually know and comply with their own service's directives but seldom consult non-DOD directives such as A-109 for guidance.

Acquisition Strategy and Joint Mission Analyses

Our review of the implementation of A-109 showed that the Secretary of Defense should provide better guidance to the services on acquisition strategy for weapon programs and on joint service analysis of missions to determine requirements.

Identification of Service Missions

After several years of effort, DOD has not established a standard list of military missions. Noting this failure, the Defense Acquisition Executive directed that the results of the most recent effort would be used for the fiscal year 1979 budget submission to the Congress.

Mission identification, definitions, and assignment to the services is essential for performing mission analysis to determine and support the need for new weapon systems. Continued failure to agree on the missions will foster continuance of the interservice rivalry and excessive overlaps in mission capability which the Commission on Government Procurement criticized in its report.

Reluctance to Seek Weapon System Solutions through Competition

The most significant non-compliance with A-109 appears to be the Services' reluctance to seek solutions to their weapon system needs through competition. Preconceived solutions are still being proposed rather than seeking solutions by soliciting competitive proposals from industry.

Some individuals within the Department of Defense apparently are still reluctant about complying with A-109 and believe the Services know best how to meet their requirements. Changing such attitudes and obtaining compliance with A-109 will require that the Secretaries of Defense and the Services, and particularly the Services' Chiefs of Staff, continue to emphasize that A-109 policies and procedures will be followed.

COMPETITION AS A GENERAL PROCUREMENT PRACTICE

I would now like to address the use of competition in the award of government contracts for goods and services. But first I'll describe contract award procedures.

To initiate procurements for supplies or services, an agency's program office prepares a requisition which describes the supplies or services to be procured, proposed date, and designated funds. Potential contractors may also be noted. After approval by the organization head, the requisition is submitted to the procurement office.

The procurement office solicits contractors capable of filling requirements for supplies or services to be acquired outside the Government. Requirements are published in the "Commerce Business Daily," a Government publication, and posted in public places. The office also maintains potential bidders lists of contractors whom it may contact by mail.

Formal advertising and negotiation are the basic methods by which the Government procures supplies and services. The law provides that purchases by Government agencies be made by formal advertising for bids whenever feasible.

Under formal advertising, contractors are invited to submit firm bid prices for specified supplies or services and a contract is awarded to the lowest responsible bidder. The Armed Services Procurement Act provides 17 exceptions to the use of formal advertising, which permit contracting officers to negotiate contracts.

When a procurement cannot be awarded by formal advertising, agencies are expected to make maximum practicable use of competition in negotiating contracts. Contractors are given requests for proposals which state the Government's requirements and criteria for evaluating offers. After interested firms are allowed sufficient time to prepare and submit offers, negotiation

with those in the competitive range follows. The firm with the offer most advantageous to the Government, price and other factors considered, is awarded the contract. Thus, negotiated procurement, as opposed to formal advertising, allows the Government to question and discuss with the firm the conditions and features of an offer.

If a procurement office determines that competition is infeasible, contracts may be noncompetitively negotiated. DOD agencies are required to justify all proposed non-competitive procurements. The requesting program office prepares the justification and submits it to a contract review board or a designated procurement official for approval.

Use of Formal Advertising

Congress has consistently advocated the maximum possible use of formal advertising to attract bidders because of anticipated savings and other benefits. In 1978, only about 7 percent of Defense procurement dollars were awarded through formal advertising. This is down from 11 percent in 1971.

Use of Competitive Negotiation

When formal advertising is not used, contract awards must be negotiated competitively, to the maximum practical extent. The trend, however, has been to less competition and less price competition in negotiated awards. The value of negotiated price competitive awards (which

includes small business and labor surplus area set-asides) decreased from 25 percent in fiscal year 1971 to 19 percent in fiscal year 1978. During the same period the value of all contract awards negotiated competitively (including price as well as design, technical, or other competition) fell from 31 to 29 percent. Concurrently, noncompetitive (or sole source) contract awards rose from 58 percent to 64 percent.

Use of Competition is Overstated

Analysis of DOD statistics for fiscal year 1978 shows Defense overstated the amount of competition involved in its contract awards. For example, close to 40 percent of the total "competitive" awards were for contract modifications that, we believe, are largely non-competitive. In our opinion, DOD's criteria for classifying competitive procurement are too broad and likely include many procurement actions that are non-competitive. Classifying these follow-on procurement actions as competitive, simply because the original contract award was competitive, is misleading. In the final analysis, only about 10.5 percent of the total amount of DOD procurements were for price competitive, negotiated, definitive contracts, including set-asides.

What Can Be Done to Increase Competition

Past GAO reports covering Department of Defense activities have pointed out the following problems adversely affecting competition which need to be corrected.

- Restrictive specifications or purchase descriptions have been used repeatedly.
- The causes for receipt of low numbers of bids have not been evaluated to increase competition for future procurements.
- Advertising in the Commerce Business Daily has not been timely, and the published description of supplies or services required has been insufficient to elicit bids.
- The complexity of invitations has discouraged suppliers from bidding.
- Bidders have been given insufficient time to bid.
- Excessive use of urgency to justify not getting competition.

Using Commercial Products Versus Government Specifications

We are currently assessing implementation of the Government's policy which requires Federal agencies, to the extent practical, to rely on commercial off-the-shelf products to satisfy their needs as opposed to products

manufactured to meet unique Federal or military specifications. Under this policy, where practical, agencies are also expected to rely on commercial distribution channels to provide these products rather than procuring and stocking them. The policy was supposed to be fully implemented by August 1979.

Federal supply agencies--including the Defense Logistics Agency--procure, stock, and distribute billions of dollars of products. Using commercial distribution channels could provide various benefits, including reducing shipping, storage, and handling costs as well as manpower and facility support requirements.

Although the major Federal supply agencies recognize the potential savings and benefits of this policy, from information we have developed to date it appears that none has aggressively pursued this matter. Implementation has faltered so badly that successful achievement of policy objectives is doubtful. We have found that:

- DOD's implementation is fragmented between many programs. It needs to develop a unified and integrated approach for implementing the policy.
- The Defense Logistics Agency continues to purchase, stock, and distribute low-demand-value items. And, its policies, procedures, practices, and methods are biased against the commercial products policy.

--On the other hand, DOD began using commercial specifications for seafood products in 1977, and reports that its cost for the products decreased 40 percent, which resulted in a savings of \$5 million for the year. Also, the number of suppliers more than doubled, and there was a dramatic decline in nonconforming seafood products introduced into the military supply system.

The goal of full implementation of the commercial products policy by August 1979 has not been accomplished. Accordingly, we are considering suggesting that the Congress place executive branch agencies under a mandatory timeframe for accomplishing implementation of the policy.

GAO Plans

We are currently planning to initiate a number of assignments later this year to examine impediments to competition, including a review of selected DOD contracts to determine whether formal advertising and other competitive procedures are used whenever appropriate.

CONCLUSION

Mr. Chairman, this concludes my prepared testimony. I would be pleased to answer any questions you may have.