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

PROCUREMENT, LOGISTICS,  
AND READINESS DIVISION

RELEASED

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RESERVED FOR RELEASE OUTSIDE THE GENERAL DECEMBER 2, 1982  
Approval

The Honorable Jim Sasser  
Ranking Member, Subcommittee on  
Intergovernmental Relations  
Committee on Governmental Affairs  
United States Senate



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Dear Senator Sasser:

Subject: Applicability of Office of Management and Budget  
Circular A-76 to the Onsite Production of Liquid  
Nitrogen at an Oak Ridge Plant (GAO/PLRD-83-16)

Your July 27, 1982, letter questioned whether Office of Management and Budget (OMB) Circular A-76 or other regulatory policy applied to the way the Department of Energy obtained liquid nitrogen at its Oak Ridge, Tennessee, gaseous diffusion plant. A small business contractor that previously supplied liquid nitrogen to this facility is now precluded from doing this because a decision was made to produce liquid nitrogen onsite.

The Oak Ridge plant is a Government-owned contractor-operated (GOCO) uranium enrichment complex in which nitrogen is critical. According to the Department, nitrogen had been produced onsite since 1959, but in 1975 the nitrogen generation facility was deemed inadequate. After studies of alternate methods of generating nitrogen, including buying it, upgrading the existing plant to increase its capacity, and building a new facility, it was concluded that upgrading would cost about 30 percent less over a 20-year period than any of the alternate methods. In 1977 this project was included in the Department's budget request to the Congress and was funded as a line item.

From July 1979 to February 1982, while the facility was being upgraded, nitrogen was bought under a small business set-aside contract from the Selox Corporation. In January 1982, the upgrading was completed and onsite nitrogen generation was resumed. This onsite generation eliminated the need to buy nitrogen. Selox contends that onsite production violates OMB Circular A-76.

The circular prescribes criteria for determining whether a product or a service should be provided in-house by the Government or procured from a contractor. In 1977, when the decision

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was made to produce nitrogen onsite, GOCO activities were not subject to the circular. Therefore, the decision did not violate it.

Although the circular has been revised since then, nothing in it requires a GOCO contractor to make a comparative cost analysis to determine whether it should continue to provide a product or a service or procure it from another contractor or a subcontractor. The circular, as revised, would have no applicability to a decision by the contractor to produce nitrogen onsite at Oak Ridge. The Office of Federal Procurement Policy in OMB agrees.

Unless you publicly announce its contents earlier, we plan no further distribution until 5 days from the date of this report. At that time we will send copies to the Secretary of Energy; the Director, Office of Management and Budget; and the Director, Office of Federal Procurement Policy. We will also make copies available to others upon request.

Sincerely yours,



Donald J. Horan  
Director