

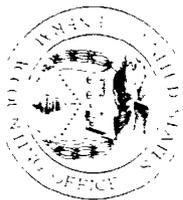
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Report to the Chairman, Legislation
and National Security Subcommittee,
Committee on Government Operations,
House of Representatives

October 1991

STATE DEPARTMENT

Status of Actions to Improve Overseas Procurement



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National Security and
International Affairs Division

B-245566

October 25, 1991

The Honorable John Conyers, Jr.
Chairman, Legislation and National
Security Subcommittee
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

In response to your request, we reviewed the status of the State Department's efforts to improve internal controls over its overseas procurement system. Two recent reports by the Department cited serious weaknesses with this system. Our objectives were to summarize (1) the procurement weaknesses cited by the reports and (2) the actions taken to correct them.

Results in Brief

A 1991 report by the Department of State's Inspector General criticized the Department's procurement system. The report recommended 35 actions to improve overseas procurement and related financial management operations. These recommendations addressed four basic problems:

- The overseas procurement system operates autonomously with little centralized oversight and review and is not an integrated, coordinated procurement operation.
- The system lacks a comprehensive and automated data base.
- U.S. and foreign national personnel who make procurement decisions at overseas posts are not always qualified or adequately trained.
- Procurement personnel are not complying with applicable procurement laws, regulations, and procedures.

The Department's fiscal year 1990 Federal Managers' Financial Integrity report also identified these four basic problems as systemic weaknesses in State's procurement system. Due to resource limitations and the number of corrective actions recommended, the Department determined that it could not immediately address each recommendation. Instead, the Department recently initiated several corrective actions responding to the four basic problems addressed by the recommendations.

According to the Department's Procurement Executive Office, the number of personnel in its office increased from 7 in 1988 to 15 in 1991,

and the number of these personnel involved in overseas procurement operations increased from 3 in 1988 to 6 in 1991. With this staffing increase, the Procurement Executive told us that the office is attempting to correct procurement problems that have existed for many years. The Procurement Executive also said that he would like to take additional steps to improve the overseas procurement process, but current resource levels do not permit more extensive corrective action at this time.

The limited actions initiated by the Department are good first steps to improving internal controls over its overseas procurement system. However, some of these steps are in early stages of implementation and will not be completed until 1992 or later. As a result, State's overseas procurement system will remain at risk for fraud, waste, and abuse for some time. We plan to monitor the implementation process and conduct a full-scale review of State's overseas procurements in fiscal year 1993.

Background

The State Department estimates that it administers about 125,000 contracting actions annually through 13 domestic offices and 256 overseas posts. The State Department's fiscal year 1991 budget for the administration of foreign affairs was over \$2 billion. Approximately half of this amount was for contracts.

Department officials told us that they lack complete data on the number and value of overseas contracts. However, they estimated that about \$500 million is spent each year on overseas contracts for supplies, services, and leased property. About 1,000 foreign service officers overseas have contracting authority.

The Department's Foreign Affairs Manual identifies the Department's organizations responsible for overseas procurement. The Office of the Procurement Executive evaluates, monitors, and reports to the Assistant Secretary for Administration on the performance of the Department's procurement system and issues policy guidance. Executive Order 12352 requires the Department of State to establish criteria to follow in improving the effectiveness of the procurement system, and the Procurement Executive is responsible for evaluating system performance in accordance with approved criteria and certifying to the Secretary of State that the procurement system meets the criteria. The Procurement Executive is also responsible for establishing overseas procurement policy and ensuring that the procedures comply with statutes and regulations. The Office of Acquisition provides operational support to

domestic and overseas procurement activities and provides policy and technical support to regional procurement support offices in Bonn, Germany, and Tokyo, Japan.

Overseas Procurement Operations Need to Be Better Organized

The Inspector General's report found that the various units in the State Department's overseas procurement system often operate autonomously and that headquarters provides inadequate oversight. The report stated that the system lacks established organizational roles to ensure compliance with procurement regulations and procedures. The Inspector General's Office also indicated that overseas procurement operations need to be better integrated with domestic procurement operations.

41 U.S.C. 414 requires the head of each executive agency to establish clear lines of authority, accountability, and responsibility for procurement decisions. The statute also requires federal agencies to designate a senior procurement executive to manage the agency's procurement system. In May 1986, the Department delegated responsibility for the procurement function to the Procurement Executive. In practice, overseas procurement authority is dispersed:

- Officers at overseas posts have procurement authority.
- Even though its primary responsibility is for domestic procurements, the Office of Acquisition, with the two overseas regional procurement and support offices, may assist overseas posts in making procurements. Within the Office of Acquisition, the Foreign Service unit and Overseas Acquisition unit exercise overseas procurement authority.
- Informal procurement centers have been established in some posts, without State assessing whether they are needed or how they relate within the Department's overall procurement operations.

The Inspector General's report recommended that the Office of the Procurement Executive, along with the Office of Acquisition, the regional procurement support offices, and the geographic bureaus, develop an organizational structure with clear lines of authority and responsibility and functional statements for each entity with procurement authority. However, the regional procurement support office in Tokyo still operates as an independent unit with limited headquarters' oversight and no formal established linkages with headquarters' procurement offices. Also, the Department does not know how many informal procurement

centers exist or the type and number of contracting actions at these centers. According to officials from the Office of the Procurement Executive, organizational linkages between units involved in overseas procurement continue to be unclear.

In March 1990, the Office of the Procurement Executive completed a procurement system certification handbook. This handbook includes criteria to follow in managing the procurement function. State Department procurement officials told us that they were drafting additional guidance to describe the responsibilities and authorities of the regional procurement support offices. However, they did not know when this guidance would be completed and approved. They said they have not begun to draft functional statements for other units involved in the overseas procurement process. State officials indicated that this process would take at least several years.

Overseas Procurement System Lacks an Automated Data Base

Both the Inspector General's report and the Financial Integrity Act report stated that the Department lacks an automated data system that provides information on contracts and contract modifications and meets mandatory reporting requirements. 41 U.S.C. 417 and the Federal Acquisition Regulation, Subpart 4.6, require the Department to establish and maintain an automated data base to record procurement information and report this information to the Federal Procurement Data System. The Inspector General's report recommended that the Department's planned management information system consider the varying needs of the posts and regional procurement and support offices.

In January 1990, the Department decided that it would develop an automated system designed to meet minimum legal requirements, provide periodic and ad hoc status reports, and establish reporting criteria. To do this, the Department must first obtain procurement data from its 256 overseas posts on individual contract actions over \$25,000. The development phase for the system is expected to be completed in November 1991, and the system is expected to be operational in early 1992. Full implementation of the system will depend on how well and how quickly posts respond to headquarters' requests for the data needed under the system.

The Department is attempting to minimize the additional reporting burden placed on posts. However, on the basis of prior experience, officials expect that the posts' compliance with reporting requirements may be low at first and that it may take several requests for the data before

some posts respond. The Department would like to obtain complete and accurate information, but given the responses by posts to similar requests in the past, the Department has established what it believes to be a realistic goal of obtaining 90 percent of the data with 90-percent accuracy.

Some Overseas Procurement Officials Are Not Qualified

According to section 1.603 of the Federal Acquisition Regulation, decisions on who will have contracting authority are to be based in part on the complexity and dollar values of the procurements involved and the candidate's experience, education, business skills, judgment, character, reputation, and training. The regulation requires that contracting officers be appointed in writing on a certificate of appointment, which describes any special limitations on the scope of authority, other than those contained in applicable laws or regulations.

Unlike most federal agencies, the Department has traditionally used a position-based warrant system for procurements by overseas posts, as prescribed by section 601.603-70(b) of the Department of State Acquisition Regulation. Under this system, contracting authority is given to officers holding certain positions regardless of their knowledge and training in procurement law, regulations, and procedures. This authority rests with the post's Principal Officer (generally the U.S. Ambassador), Administrative Officer, and General Services Officer. Individuals serving in an acting capacity in any of these positions also have contracting authority. Foreign national employees do not have contracting authority, but, according to State Department procurement officials, they actively participate in the procurement process and often have more knowledge of proper procurement practices than the U.S. officers.

Both the Inspector General's report and Financial Integrity Act report cited the use of a position-based warrant system as a weakness. The Inspector General's report identified examples of U.S. and foreign national personnel who were performing procurement functions at overseas posts but did not have sufficient procurement knowledge or qualifications.

In January 1991, the Office of the Procurement Executive announced its plan to develop a name warrant system, under which procurement authority would be vested in specific individuals, not positions. The Department's objectives are to establish minimum criteria for issuing procurement authority to an individual, provide procurement training so that designated personnel meet these criteria, and align training and

procurement authority with the levels of procurement activity at each overseas post.

Department procurement officials believe that the development of a name warrant system in accordance with federal regulations will lessen the vulnerability of overseas procurements to fraud, waste, and abuse. However, they said that it would take years to fully implement the name warrant system. In September 1991, officials from the Office of the Procurement Executive told us they plan to begin using a name warrant system for some overseas posts in 1992. The Department is still in the process of gathering complete data and information on the type of contracting activities at each post, including the number of U.S. officers with procurement training and experience. Such information must be obtained before a name warrant system can be implemented.

Until the name warrant system is fully implemented and contracting officers have the qualifications and procurement training commensurate with the procurement authority vested in them, the present risk of improper overseas procurements will continue. In the meantime, the Department hopes that its Overseas Procurement and Contracting Handbook, distributed in April 1991, will provide some guidance to assist overseas procurement decisions. The handbook, referred to as "the cookbook," combines information from the Federal Acquisition Regulation and the Department of State Acquisition Regulation in a more usable format. The Department hopes that the handbook will better able officers to conduct procurement actions so that they conform to laws, regulations, and proper practices and serve the best interests of the United States. In addition, personnel from the Office of the Procurement Executive have conducted 19 procurement seminars, including 9 at overseas posts on procurement training and assistance.

Due to budget considerations, the Department has not expanded training of foreign service nationals involved in procurement functions.

Personnel Need to Comply With Procurement Laws and Regulations

The Inspector General's report found that personnel at the overseas posts frequently do not comply with procurement laws and regulations. The report cited instances of unauthorized purchases and excessive sole-source buying, unauthorized personnel entering into contracts, and improper practices to retain funds past their expiration date.

Beginning in fiscal year 1989, the Office of the Procurement Executive required each post to report data on the number of contracts that were

awarded competitively and the number that were awarded sole-source. The Procurement Executive also began to report the results of these data annually to posts worldwide. This feedback to the posts has resulted in an increased awareness of the need for competition and an increase in reporting from posts to headquarters. In the last 3 years, the Procurement Executive has also issued more than a dozen policy directives, information bulletins, airgrams, and telegrams to overseas posts to encourage compliance with procurement laws and regulations. However, the Procurement Executive acknowledged that too many contracts were still being awarded noncompetitively. In July 1990, the Department formally established an Overseas Policy and Compliance Division to improve headquarters' oversight of procurement actions at overseas posts.

The Inspector General's report recommended that the Department develop a mechanism for ensuring that overseas contract actions exceeding \$100,000 are identified and submitted to the Office of the Procurement Executive for review, as required by Department of State regulations. A review of these high-value contracts by procurement experts in headquarters could lessen the chance of fraud, waste, and abuse. Officials from the Office of the Procurement Executive agreed with the Department's requirement for centralized review and approval of high-value contracts. However, they told us that if all such actions were submitted to the Office of the Procurement Executive for review, the office would be unable to cope with the work load. With the current staffing levels available to the overseas division, the office could not adequately review the contracts or offer more than advisory comments on improper contracts requiring significant changes to comply with laws and regulations.

The Inspector General's audit also found that overseas posts use improper procurement and fiscal practices to retain funds past their expiration date and fail to fully record obligations for fixed-price contracts. Volume 3, section 630 of the Foreign Affairs Manual requires a thorough investigation of such fiscal irregularities. Because personnel involved in overseas procurement actions are not adequately trained and therefore may not be aware of proper procurement practices, officials from the Office of the Procurement Executive are reluctant to reprimand violators. However, they acknowledged that administrative sanctions would need to be considered in the future in some instances.

Scope and Methodology

We interviewed officials of the State Department's Bureau of Administration, Office of the Procurement Executive, Office of the Inspector General, Office of Acquisition, Bureau of Diplomatic Security, and Foreign Service Institute. We also interviewed officials from the Office of Federal Procurement Policy in the Office of Management and Budget. We reviewed reports and documents on the Department's overseas procurement programs, policies, procedures, and plans.

We have not reported previously on the State Department's overseas procurement system. However, we have reported on the Department's domestic procurement operations: Procurement: Department of State Should Be Competing Many Sole-Source Contracts (GAO/NSIAD-89-6, Jan. 24, 1989).

As you requested, we did not obtain written agency comments on this report. However, we provided a draft of this report to State Department procurement officials and incorporated their comments where appropriate. We conducted our work between March and September 1991 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time we will send copies to the Secretary of State and appropriate congressional committees. We will also make copies available to others.

Please contact me at (202) 275-4128 if you or your staff have any questions concerning this report. Major contributors to this report are John Brummet, Assistant Director, John Townes, Evaluator-in-Charge, and Calvin Watson, Evaluator, National Security and International Affairs Division, Washington, D.C.

Sincerely yours,



Joseph E. Kelley
Director, Security and International
Relations Issues

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