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

ACCOUNTING AND FINANCIAL
MANAGEMENT DIVISION

B-206355

February 18, 1982

The Honorable Drew Lewis
The Secretary of Transportation

Subject: Applicability of Public Law 89-306 to the Federal
Aviation Administration's (FAA's) Procurement of
Computers for the Air Traffic Control System
(AFMD-82-47)

Dear Mr. Secretary:

At the request of the House Committee on Government Operations, we are currently reviewing the Federal Aviation Administration's planning, management, and acquisition of automated information systems for air traffic control and FAA management purposes.

On January 18 and 19, 1982, FAA briefed congressional, Office of Technology Assessment, and GAO staff on its preliminary plan for upgrading the Nation's air traffic control system, including the replacement of virtually all present en route and airport terminal computers.

As a first step, by the mid-1980s FAA plans to replace the IBM Model 9020 computers at the Nation's 20 en route air traffic control centers with computers capable of running the existing software with minimum modifications. Ultimately, according to FAA, the en route and terminal facilities will be consolidated and most hardware and software elements will be identical.

COMPUTERS FOR AIR TRAFFIC CONTROL
NOT CONSIDERED AUTOMATIC DATA PROCESSING EQUIPMENT

According to FAA officials, the new computers FAA plans to buy for the air traffic control system will be general purpose, mass produced, commercially available computers. However, these FAA officials stated that they do not plan to follow the process the General Services Administration (GSA) established under Public Law 89-306 for buying such automatic data processing (ADP) equipment. The officials stated that they are procuring an air traffic control system, not a computer system. Thus, they believe the computers are only components of the system and are not subject to the GSA procurement process.

One important objective of Public Law 89-306 was the economic acquisition of Government ADP equipment. To promote such acquisition, a Federal agency planning to acquire general purpose, mass

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produced, commercially available ADP equipment must, with certain exceptions, submit an agency procurement request to GSA for review. After reviewing the agency's procurement request, GSA will either

- delegate authority to the agency for conducting the procurement;
- delegate authority to the agency for conducting the procurement, with GSA participation in the procurement as necessary; or
- conduct the procurement itself with agency assistance, as needed.

We believe FAA must follow the procedure established under Public Law 89-306 and the applicable sections (sec. 1-4.1102-1 and sec. 1-4.1109-18(b)) of Title 41 of the Code of Federal Regulations unless the Administrator of General Services specifically exempts it (sec. 1-4.1100-3) from doing so. Otherwise, FAA does not have the legal authority for buying such equipment. We also believe that the exclusion granted in Department of Transportation Order 1370.2A exempting FAA's air traffic control computers from the policies and procedures used to procure ADP equipment is invalid.

CONCLUSION AND RECOMMENDATIONS

We believe Public Law 89-306 applies to general purpose, mass produced, commercially available ADP equipment. The law would be violated if FAA failed to obtain a delegation of procurement authority simply because a contractor would acquire equipment and deliver it to the Government as a part of an end item. Also, GSA's present regulations are sufficiently broad to give GSA jurisdiction over the procurement of such ADP equipment supplied to the Government.

Since FAA has predicted that computers at certain centers will reach maximum capacity by the mid-1980s, any delay may reduce the efficiency and the safety of the Nation's air traffic control system. Therefore, we recommend that you direct the Administrator of FAA to comply fully with the provisions of Public Law 89-306 in procuring the replacement computers for the air traffic control system. We believe this recommendation should not cause FAA any delay since it can concurrently work with GSA without any change to its procurement schedule. Further, to preclude future potential misinterpretation, we recommend that you revise Department of Transportation Order 1370.2A to eliminate the present blanket exemption and to substitute language closer to that of the current GSA language. (See 41 C.F.R. 4.1102-1.)

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This report contains recommendations to you. As you know, section 236 of the Legislative Reorganization Act of 1970 requires

the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

However, because FAA has stated that it must proceed immediately to initiate two major procurements for the computer replacement program, and it is not our intent to cause unnecessary procurement delays, we believe this matter should be resolved expeditiously. Therefore, we need to know your position on this matter as quickly as possible but not later than 15 days from the date of this letter. We will be glad to discuss this report with you or members of your staff.

We are sending copies of this report to the Director of the Office of Management and Budget and to the Chairmen of the House Committee on Government Operations and its Subcommittee on Government Activities and Transportation and the Senate Subcommittee on Transportation of the Committee on Appropriations.

Sincerely yours,


W. D. Campbell
Acting Director