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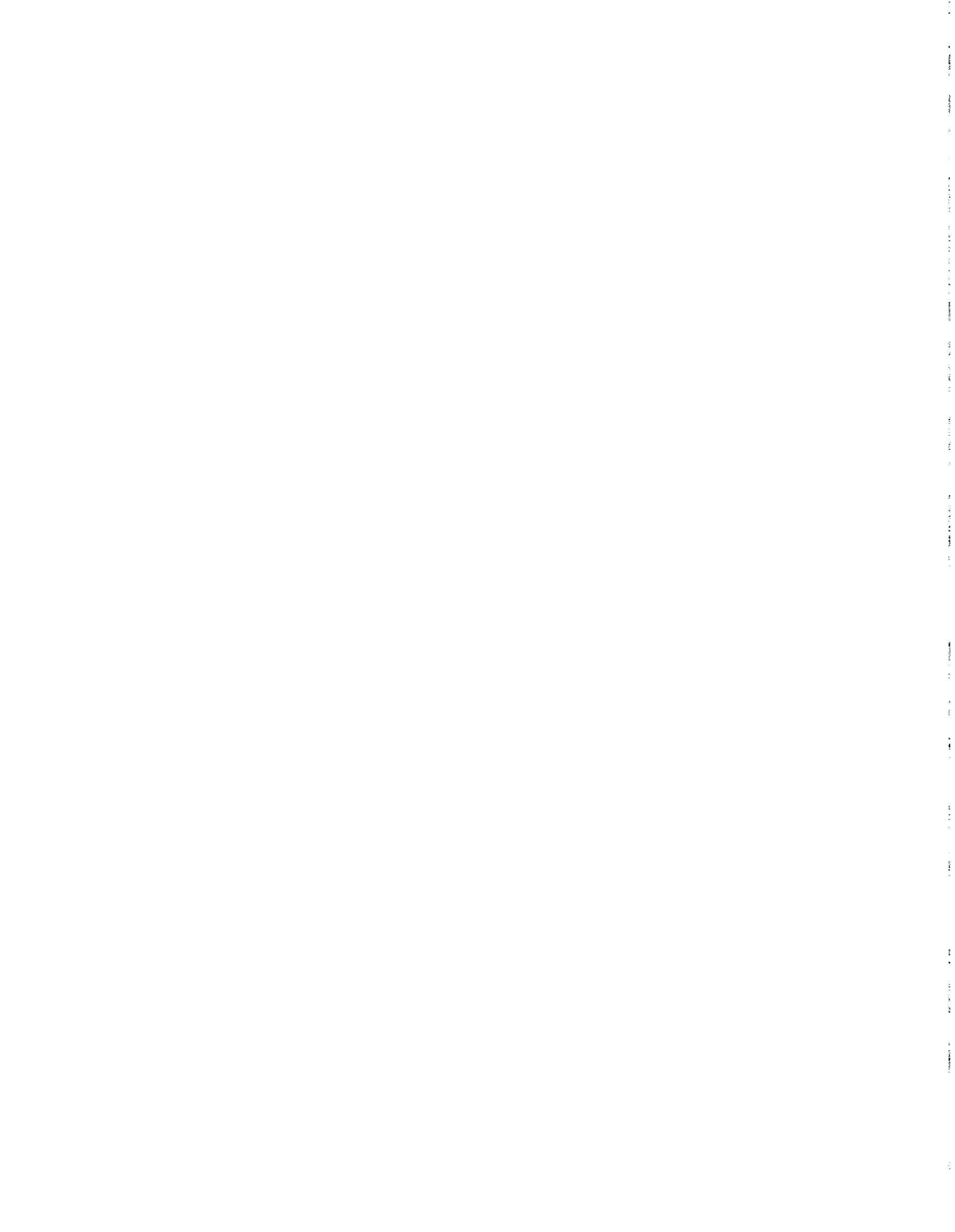
BY THE COMPTROLLER GENERAL
**Report To The Chairman,
Committee On Government Operations
House Of Representatives
OF THE UNITED STATES**

**Misuse Of SBA's 8(a) Program Increased
Cost For Many ADP Equipment Acquisitions**

The Small Business Administration, under section 8(a) of the Small Business Act, gives non-competitive Government contracts and other aid to socially and economically disadvantaged businesses to help them become self-sufficient. Within the past 3 years Federal agencies have misused this program to acquire new ADP equipment. SBA and the various Federal agencies using 8(a) firms did not comply with Federal procurement policies and regulations implementing the Brooks Act nor with other procurement laws. These deficiencies significantly increased the Government's cost for new ADP equipment acquired through 8(a) firms.



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

B-198898

The Honorable Jack Brooks
Chairman, Committee on
Government Operations
House of Representatives

Dear Mr. Chairman:

As requested in your letter of December 14, 1979 (app. I), we have reviewed the use of contracts under Section 8(a) of the Small Business Act (Public Law 95-507) by various Federal agencies as a means of acquiring ADP equipment. At your request, we sought to determine whether

- Government computer acquisition opportunities are being made available to as many small and disadvantaged businesses as possible under the Small Business Administration's (SBA's) 8(a) program, and
- Federal procurement policies and regulations are being violated by SBA, Federal agencies, or contractors when ADP equipment is acquired under Section 8(a) contracts.

On June 26, 1980, we briefed your office on the results of our review and, at your request, testified on April 29, 1981, before your Subcommittee on Legislation and National Security. As requested by your office, we are providing this written report on our review.

SCOPE AND METHODOLOGY

We reviewed SBA's Section 8(a) ADP procurement program to determine if Government procurement opportunities are available to as many small businesses as possible and to determine if Federal procurement policies and procedures were being followed by these small businesses when acquiring ADP goods and services for the Government.

To meet these objectives we obtained overall data at SBA Headquarters; SBA district offices in Washington, D.C., Richmond, Virginia, and Los Angeles, California; and the SBA Region IX office in San Francisco, California. We reviewed SBA's legislative authority, contracting procedures, and the files for 8(a) procurements at the General Services Administration (GSA) in Washington, D.C., and Fort Worth, Texas, at the Departments of the Army, the Interior, Transportation, and Commerce, and at the Veterans Administration. We also interviewed selected computer equipment manufacturers

(Amdahl Corporation, Data General Corporation, Digital Equipment Corporation, and International Business Machines Corporation) to determine the nature of the business relationship and contract(s) with the 8(a) minority business firms in the 27 cases identified in our review. Since the April 29 hearings, we have held follow-up discussions at the Department of Defense on its management reviews of one Navy and one Army system procurement. We also held discussions with several 8(a) contractors concerning the definition of system integrator contracts for 8(a) firms.

OVERVIEW

The objective of the minority small business program, authorized by the Small Business Act of 1953, is to foster business ownership by socially and economically disadvantaged individuals through Government procurement assistance and other means and thereby help them develop their ability to compete effectively on the open market.

Under Section 8(a) of the act, SBA is authorized to enter into contracts with other Federal agencies and departments and to subcontract work to small, disadvantaged businesses. Once a firm is accepted into the program, the Government provides procurement assistance until (1) a firm graduates from the program by achieving the goals of its business plan and demonstrating the ability to compete effectively in the open market without further 8(a) assistance or (2) participation in the program is terminated by SBA.

We believe that SBA's management of the ADP resource acquisition portion of the 8(a) program has been deficient. During our review we found that

- only a limited number of minority-owned firms capable of supplying ADP equipment had been recruited into the 8(a) program;
- the 8(a) firms supplying ADP equipment were functioning as brokers, not as regular dealers;
- SBA failed to follow its own procedures, which contributed to the brokering and increased the cost of the ADP equipment;
- Federal agencies were able to acquire specific items of ADP equipment through the 8(a) program which they had not justified for acquisition without competition;
- requirements concerning cost and pricing data and preaward audits were not met, and
- SBA frequently ignored the Small Business regulations and SBA procedures concerning size requirements.

LIMITED NUMBER OF 8(a) FIRMS
CONTRACTED TO SUPPLY ADP EQUIPMENT

The number of 8(a) firms that have contracted to supply ADP equipment has been very limited. Prior to July 1980, only three 8(a) firms had contracted through SBA to supply ADP equipment and one of them had obtained the majority of these contracts. SBA routinely approved the 8(a) contractor suggested by the procuring agency without considering other 8(a) firms for the award or advertising the opportunity. This practice limited the distribution of procurement support among eligible 8(a) firms. Several agencies told us that they made proposals for technical competition among 8(a) ADP equipment suppliers but SBA, in all but two cases, rejected these proposals as not in the best interest of the program. Consequently, only a limited number of small, minority-owned businesses participated in the ADP equipment portion of the 8(a) program and for the most part the Government lost the savings and other benefits intended to be gained through competition.

The first identifiable ADP equipment supply contract was awarded through SBA to an 8(a) firm in October 1978. From then through June 6, 1980, 27 such contracts were awarded. The total initial face value of the contracts was \$13.2 million. The value of these contracts will increase to \$18.2 million if all lease options are exercised. The table below provides an analysis, by 8(a) firm, of the 27 contracts awarded.

<u>Firm</u>	<u>Number of contracts</u>	<u>Total contract value</u>	<u>Total estimated contract life value (note a)</u>
Misso Services Corporation and Associates	22	\$12,000,275	\$16,935,636
Automated Business Services	4	536,361	574,900
Sterling Systems Inc.	<u>1</u>	<u>651,284</u>	<u>651,284</u>
Total	<u>27</u>	<u>\$13,187,920</u>	<u>\$18,161,820</u>

a/Total contract value if Government exercises lease renewal options.

As can be seen in the table, one firm got most of the ADP equipment contracts--it received 22 of the 27 awards, or 91 percent of the total dollar value (\$12.0 million out of \$13.2 million).

This firm obtained such a large share of equipment contracts because:

- The firm obtained information on which agencies were buying ADP equipment by obtaining copies of agency procurement requests and delegations of procurement authority from GSA under the Freedom of Information Act.
- It directed significant marketing efforts toward agencies it knew had either requested or been granted delegations to procure ADP equipment.
- SBA routinely accepted an agency's recommendation for the 8(a) firm to be awarded a subcontract.

Since June 1980, several additional firms have received, or have been nominated by SBA to receive, ADP equipment supply contracts. Although the initially dominant firm received \$7 million in additional awards, it also was denied several other large dollar ADP equipment contracts by SBA. In our view, one of the primary reasons for the limited number of 8(a) firms providing ADP equipment has been the absence of competition within SBA's selection process. Other reasons are (1) SBA had not made any attempt to equitably distribute its subcontracts among qualified 8(a) firms, (2) SBA had not recruited firms as dealers in ADP supplies, and (3) SBA had not limited 8(a) awards to amounts or lines of business specified in the firms' business plans.

The greater use of technical competition among 8(a) firms could improve the situation and has been recognized by both GSA and SBA as necessary for the 8(a) program. According to one GSA official, the 8(a) program cannot be successful if 8(a) firms do not gain the experience of competition, at least among themselves, prior to graduation from the program.

FEDERAL PROCUREMENT POLICIES AND REGULATIONS
WERE NOT FOLLOWED WHEN AGENCIES USED 8(a)
CONTRACTS TO ACQUIRE ADP EQUIPMENT

Federal procurement policies and regulations implementing the Brooks Act (Public Law 89-306), and other procurement laws, were not being complied with by SBA, 8(a) firms, or agencies using 8(a) firms. Specifics of our finding follow.

The 8(a) firms act as brokers rather than
as "regular dealers" in new ADP equipment

Nearly all of the equipment supplied under the 8(a) program to Federal agencies in the first 27 contracts, and all of the equipment in the more recent ADP equipment supply contracts is new ADP equipment costing over \$10,000. Under the Walsh-Healey Act, Section 1(a), 41 U.S.C. 35(a) (1976), whenever such equipment is procured by a Federal agency or by a contractor for delivery to a Federal agency, the vendor must be a "manufacturer" or "regular dealer" as defined in the act. The intent of the act is to prevent the Government from contracting with "bid brokers," or "middlemen."

SBA officials, however, questioned the legal applicability of the Walsh-Healey Act to 8(a) contracts and requested an advance decision from GAO. On May 22, the Comptroller General published his decision (B-195118) which states:

"Walsh-Healey Public Contracts Act section 1(a), 41 U.S.C. § 35(a) (1976) * * * applies to small disadvantaged business concerns awarded 'subcontracts' by Small Business Administration (SBA) under SBA program pursuant to section 8(a) of Small Business Act, as amended, 15 U.S.C. §637(a) (Supp. III, 1979)."

The three 8(a) firms involved in the 27 cases reviewed were not manufacturers or regular dealers in new ADP equipment. Further, SBA had not required any of the firms to qualify as regular dealers. The initially dominant firm claimed to be certified, through a predecessor firm, as a special class of regular dealer or "computer lessor and dealer in used ADP equipment." This firm was not, however, granted entrance in the 8(a) program as a dealer under SBA procedures or as a lessor and dealer of new or used computer equipment. Rather, the firm was entered as a professional services firm in computer sciences.

Since initial consideration, however, the dominant firm has clearly set forth as its objective: "sales and service of computer equipment." From its acceptance in the program, it has argued and pursued this objective. SBA, in most of the 22 contract awards to this firm, had certified the firm as "eligible" under the 8(a) program and in the business of "sales and service of ADP equipment."

According to the Defense Contract Audit Agency, and other internal audit reports, the firm possesses none of the characteristics of a regular dealer as defined in the act. The firm did not have a "store" or "stocked warehouse," provided little or no maintenance, training, or other services, and, to our knowledge, had no sales to the general public. Further, in constructing its contractual relationships with Federal agencies, this firm subcontracted almost all supplies and services.

The other two firms also acted as brokers in the contracts we reviewed. However, these firms normally function as system or software firms and do not, to our knowledge, make any claim to be regular dealers in ADP equipment. These firms generally act as system integrators which provide many of the services associated with the design, acquisition, and operation of computer systems. In essence, these firms provide turnkey operations. For example, one of these firms, Sterling Systems Incorporated, performed as a system integrator and as such was responsible for delivering an installed, tested, operational system composed of a number of hardware and software components and converted application software. The firm, in the initial contract and after subsequent modifications, provided substantial professional services (using its own workers) in design, management, software conversion, and

interfacing and installing the hardware and software components. The initial contract violated SBA's 55 percent performance criterion. (See below.) Later contract modifications added substantial requirements for the firm and in final form the firm delivered about 50 percent of the total contract with its own resources. This firm did not receive a brokerage fee for the acquisition of the hardware component but did receive an overhead and profit fee for the acquisition of various operating and support software components.

SBA's failure to follow its own
procedures contributed to the brokering
and increased the Government's costs

SBA established a pattern of failing to follow, or routinely granting waivers of, its own standard operating procedures. This led in most cases to the brokerage arrangements discussed above. Specifically, the SBA procedure for a "dealer" requires that supplies be purchased, kept in stock, and sold to the public in the usual course of business. These procedures are identical to the requirements, or conditions, defined in the Walsh-Healey Act. However, neither the dealer provisions in the Walsh-Healey Act nor those in SBA's procedures were enforced or applied to the three 8(a) firms involved in the 27 cases we reviewed.

Other SBA standard operating procedures require that a firm participating in the program as a professional services firm perform at least 55 percent of the dollar value of the work on a contract requirement with its own labor force. Through June 1980, SBA had ignored or routinely waived this provision, which is designed to prevent brokerage arrangements and fronting arrangements wherein the 8(a) firm becomes a mere conduit to a large, ineligible business.

Failure to follow these procedures enabled Federal agencies to acquire ADP equipment through 8(a) firms on a sole-source basis and in most cases the 8(a) firm did little more than order the equipment to specification from the manufacturer. This resulted in large brokerage fees for the 8(a) firms doing the purchasing and excess costs to the Government. We compared seven of the contracts on which we were able to obtain cost and pricing details. The following table shows our comparison of the prices, including the overhead and profit paid to the 8(a) firm, on these seven contracts to the prices of the equipment on the GSA schedule with equivalent terms, warranties, and conditions.

<u>Agency</u>	<u>8(a) contract price</u>	<u>GSA schedule</u>	<u>Added cost through 8(a)</u>
Veterans Administration	\$ 806,216	\$ 732,003	\$ 74,213
Veterans Administration	3,482,421	3,241,427	240,994
Veterans Administration	2,638,764	2,274,615	364,149
Army	1,221,401	773,293	448,108
Army National Guard	495,064	383,652	111,412
Commerce - Census Bureau	715,340	539,389	175,951
Commerce - National Bureau of Standards	<u>55,475</u>	<u>51,551</u>	<u>3,924</u>
Total	<u>\$9,414,681</u>	<u>\$7,995,930</u>	<u>\$1,418,751</u>

This comparison shows that the Government paid an average of 18 percent more by acquiring this equipment through the 8(a) program than it would have paid by contracting directly with the manufacturers using GSA-negotiated prices. On an individual contract basis, the added cost ranged from 7 percent to 58 percent. This total excess cost amounted to \$1.4 million for the seven 8(a) equipment supply contracts. This line of business--ordering ADP equipment for a fee without performing services of any real substance--does not exist in the private sector. It exists only in the 8(a) program. This type of business is prohibited by the Walsh-Healey Act in all other Federal contracting.

At your request, we briefed the SBA in June 1980 about the brokering situation. Following our briefing, the SBA issued new guidance (app. II) which addresses the brokerage problem. SBA is now requiring that its 8(a) firms provide services other than merely acquiring ADP equipment. This policy is, however, being challenged by Misso Services Corporation in a suit scheduled to be tried before the United States District Court for the District of Columbia in October 1981.

Since your April 29 hearings, the new Administrator of SBA has also taken several initiatives to ensure that the brokering arrangements described above do not occur again. According to the new Administrator, all waivers of SBA procedures will be extremely rare and he, himself, will review each waiver request. Also, the 55 percent performance criterion will be strictly enforced.

Agencies acquired equipment on a sole-source basis without justification or normal safeguards

By contracting with a minority firm through the 8(a) program, and by specifying a particular make and model of ADP equipment,

Federal agencies have been able to acquire specific items of equipment indirectly from large computer manufacturers without providing the documented sole-source justification which would be required for a direct procurement from the manufacturer.

Generally, if an agency wants to procure an item of ADP equipment on a sole-source basis, it is required to justify this deviation from normal competitive procurement. During the period of our review, section 1-4.1104(k) of the Federal Procurement Regulations required that a sole-source justification document be submitted to GSA with the agency's request for procurement authority, specifically addressing:

- intended use or application or unique features that limit the acquisition to a single source, make, or model;
- the fact that no other known or probable source of supply exists (and an elaboration of the steps taken which led to this conclusion);
- the existence of patent, copyright, or other limitations; and
- the practical factors which preclude the development of specifications and/or the requirement for competition.

Awards made by SBA under the 8(a) program are usually negotiated on a sole-source basis. This practice is clearly authorized by law. Agencies have, however, submitted ADP equipment procurement requests which have either not included any justification or have simply cited the 8(a) program as authority for the requested sole-source award. The General Services Administration had routinely granted the Delegations of Procurement Authority (DPA's) in both cases, even though the 8(a) firm would merely be ordering a specified make and model of ADP equipment from a large computer manufacturer. Related services, such as installation or maintenance have, in many cases, been either subcontracted by the 8(a) firm to the manufacturer, or acquired under separate contract by the Federal agencies. In other cases, agencies have requested and received procurement authority specifically for competitive procurements but have chosen to award the contract noncompetitively to an 8(a) firm, or have not requested a DPA at all.

At the time of our review, no clear guidance existed as to how these regulations applied to the award of contracts to SBA or subcontracts by SBA to 8(a) firms made under the 8(a) program and to the ultimate purchase of ADP equipment by an 8(a) firm from a specified manufacturer. In practice, the regulations had not been applied to any of the 27 equipment supply 8(a) procurements we reviewed.

Following your April 29 hearings, GSA instituted several actions to address the above deficiencies. GSA met with SBA and

informed SBA officials that Federal Procurement Regulations apply to the SBA and its programs. Also, GSA modified its DPA process by placing specific limitations on the use of 8(a) firms to acquire ADP equipment. In the future, DPA's that are issued to agencies which have not informed GSA of their intention to use an 8(a) firm will include a statement voiding the DPA if an 8(a) firm is used. When an agency informs GSA that it intends to use an 8(a) firm, GSA will place in the DPA specific requirements concerning

- sole-source justifications,
- the severability of ADP equipment and services,
- technical competition among 8(a) firms,
- compliance with the Walsh-Healey Act,
- the technical capability of 8(a) firms and SBA,
- the determination of fair and reasonable prices, and
- compliance with SBA's subcontracting limitations.

According to GSA, these requirements offer the opportunity to obtain competition among 8(a) firms and ensure that applicable Federal Procurement Regulations are followed during ADP equipment procurement.

Cost and pricing data were missing
and preaward audits were not made

Only three of a sample of 13 contract files contained cost and pricing data submitted by the 8(a) ADP contractor. These data revealed in all three instances that the contractor included interest expense as part of material overhead cost. The Federal Procurement Regulations specifically exclude interest as an element of cost to be considered when negotiating a contract price. The proposals submitted by the 8(a) contractor showed overhead and profit items of 25 to 42 percent based on the cost of equipment ordered. These items were to be paid to a firm which had five or six employees and did little other than solicit and order equipment from the manufacturer.

Cost and pricing information required for four other contracts had not been submitted. In addition, preaward audits should have been performed on seven price proposals. The audits were not performed and the proper waiver procedure was used in only one case. The value of the cost and pricing data submissions and these audits is obvious--the three preaward audits that were performed identified unallowable costs of \$1.3 million. These unallowable costs are not included in our computation of added costs on the seven contracts compared on page 7.

Size regulations were ignored

SBA frequently ignored the Small Business Regulations (13 C.F.R. 124.1 and, by reference, 13 C.F.R. 121.3-8(e)) and SBA procedures in awarding the ADP equipment contracts to 8(a) firms. The equipment supply contract awards of \$7.1 million to one 8(a) firm (Misso Services) in fiscal 1979 and awards of \$8.5 million to this firm in fiscal 1980 place it clearly above the maximum \$4 million 3-year average sales criterion required to maintain its small business status.

In another instance, SBA recently recommended that it award two contracts, one for the Navy and one for the Army, amounting to about \$159 million over several years, to two 8(a) firms. In our view, these contracts are clearly beyond the scope of the 8(a) small business program. The small business size standard for such firms is \$4 or \$7 million annually in total business, including commercial business. Further, while these contracts involve some related software and other services (as called for in SBA's policy on contracts involving ADP equipment) the relatively small percentage of total value represented by such services, make it appear that they are, in effect, newer versions of the brokering arrangements discussed earlier. The Department of Defense recently undertook a review of these two contracts to address several issues. The review of the Navy contract has been completed and several changes have been proposed that will eliminate the brokering arrangement while permitting the contract to remain as an 8(a) award. The Army contract is still under review.

The review also sought to address concerns about the size of the contract versus 8(a) eligibility. The Department's final opinion was that size eligibility is an issue for the SBA to address. A Navy official told us that a recent final SBA rule change, in the applicability of the size standards to 8(a) contracts, made possible the award of large contracts to small 8(a) firms. This change, which was published in the Federal Register on January 12, removes size as a consideration for individual contracts to 8(a) firms and makes size determinations advisory in 8(a) program eligibility proceedings. The SBA has stated that the rule change was an interpretation of the applicability of the size rules, not a change in the size rules. However, this change was substantial in that it clearly eliminated any size consideration for contract awards under the 8(a) program. In our view, this change allowed SBA to award contracts that are clearly beyond the intended scope of the 8(a) program. The program was intended to aid small businesses and some limitations ought to apply to define what is a small business as well as the appropriate size of contracts to award to small businesses through the SBA's programs.

CONCLUSIONS

SBA's practice of routinely approving the 8(a) contractor suggested by a procuring agency without considering other 8(a)

firms for the award, and without advertising the ADP equipment opportunity, limits the distribution of procurement support among eligible 8(a) firms. SBA rejected proposals for technical competition among ADP equipment suppliers as not in the best interest of the program. Consequently, only a limited number of businesses have participated as equipment suppliers under the 8(a) program and, for the most part, the Government lost the savings and other benefits intended to be gained through competition.

Further, SBA failed to require any of the 8(a) ADP equipment supplying firms to qualify as "regular dealers" authorized to provide the Government such supplies.

Government agencies have circumvented the public law and the implementing Federal regulations which require detailed justifications for sole-source procurement of ADP equipment. Agencies were able to do this by contracting with SBA under the 8(a) program and specifying a particular make and model of equipment to be delivered by the 8(a) firm because 8(a) firms were not required to follow the procurement policies and regulations that a Federal agency or other Federal contractors must follow. Further, SBA consistently waived or did not follow two of its own procedures designed to prevent transactions of this type.

We believe that awarding these contracts is not achieving the goals of the 8(a) program. Instead of helping the firms to gain the experience and financial viability necessary to prosper in the competitive market place, the agencies and SBA are paying these firms to perform a function for which there is no competitive market. Moreover, this has unnecessarily cost the Government substantial sums of money and will cost far more if corrective actions are not taken.

Finally, the SBA frequently ignored Small Business Regulations and SBA procedures regarding size standards. By doing so, SBA awarded or sought to award contracts which, in our opinion, are clearly beyond the intended scope of the 8(a) program. We believe the 8(a) program objectives would best be served if individual 8(a) contract opportunities in computer sciences were limited to annual awards not exceeding 50 percent of an appropriately defined size standard for such services (presently \$4 or \$7 million annually depending on the type of service provided).

We believe that such a limitation would provide 8(a) firms with contracts which

- are within reasonable development capabilities of the firms and
- represent the maximum acceptable risk of discontinuance or failure to both the firms and the Government.

Also, such a limitation would allow 8(a) firms to acquire system software design and development and facilities management contracts while minimizing the impact on other small and minority (non-8(a)) businesses vying for opportunities in the Federal market.

RECOMMENDATIONS TO THE ADMINISTRATOR OF
THE SMALL BUSINESS ADMINISTRATION

To ensure equity among all businesses and within the small business programs, when the Government acquires supplies and equipment, we recommend that the Administrator of the Small Business Administration issue a directive requiring compliance with all appropriate procurement laws and regulations, as well as small and minority business regulations and procedures. Specific emphasis should be placed on the requirements of

- the Walsh-Healey Act,
- the Brooks Act,
- the Federal Procurement and Defense Acquisition Regulations,
and
- SBA's requirements for 8(a) firms to perform substantial portions of contracts with their own workers.

We also recommend that the Administrator review all existing 8(a) contracts for ADP equipment to identify those in which the 8(a) firm is acting as a broker and in which it is in the best interest of the Government to initiate contract termination proceedings or take other action to eliminate the brokerage situation.

Finally, we recommend that the Administrator direct SBA program officials to select 8(a) subcontractors through an equitable selection process which encourages technical competition among 8(a) firms and gives due consideration to the firm's capabilities and developmental needs.

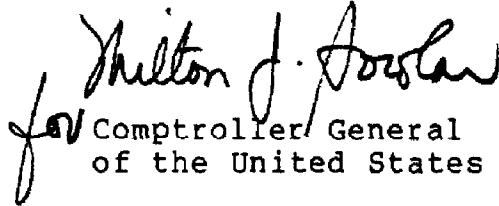
RECOMMENDATION TO THE
ADMINISTRATOR OF GENERAL SERVICES

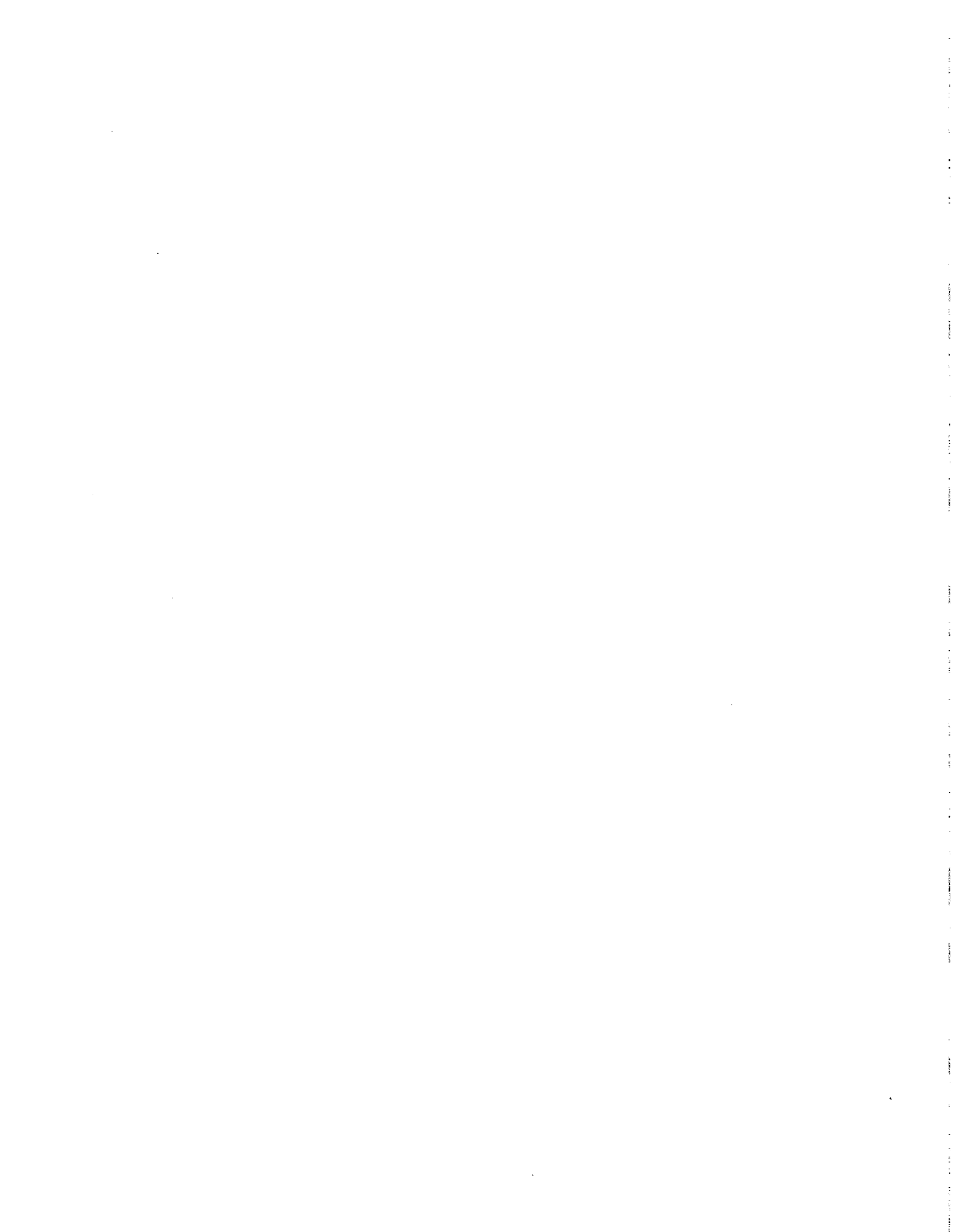
At the April 29 hearings of the Subcommittee on Legislation and National Security, we outlined a plan for the Office of Management and Budget and the General Services Administration that we believe will address many of the problems noted during our review.

Also, we recommend that the Administrator of General Services, with the advice of the Director of the Office of Management and Budget under the general commission of the Paperwork Reduction Act of 1980 (Public Law 96-511) and the Brooks Act, as well as other authorities, place in Subpart 1-4.11 of Title 41 of the Federal Procurement Regulations, and other appropriate places, guidance on the size of ADP and data communication contracts appropriate for award to small business and 8(a) firms.

As you requested, no official comments were obtained from SBA, the Office of Management and Budget, or GSA on our findings, conclusions, and recommendations. As arranged with your office, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time we will send copies to the Director of the Office of Management and Budget, the Administrator of the Small Business Administration, and the Administrator of General Services, and we will make copies available to other interested parties.

Sincerely yours,


for Comptroller General
of the United States



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NINETY-SIXTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS
 2157 Rayburn House Office Building

Washington, D.C. 20515

December 14, 1979

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MAJORITY—225-5051
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Honorable Elmer B. Staats
 Comptroller General of the United States
 General Accounting Office
 Washington, D.C. 20548

Dear General:

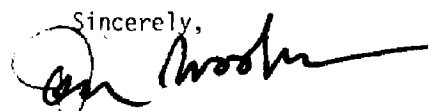
The Government Operations Committee has recently become aware of numerous executive agency procurement requests for automatic data processing (ADP) resources being made through the Small Business Administration's section 8(a) program. The most recent cases have involved the Department of the Interior, U. S. Geological Survey; the Veterans Administration and the Department of the Army.

It is my understanding that these procurements have caused certain procedural and policy questions to be raised by the central oversight agencies, principally GSA. While I am aware that the application of the SBA section 8(a) program to the procurement of ADP resources is relatively new, I believe that it is essential that these problems be resolved in an expeditious manner.

I therefore request that you initiate a review of the implementation of the 8(a) program, as it relates to the acquisition of ADP resources. Specifically, I am interested in ensuring that 1) Government procurement opportunities are available to as many small business concerns and minority or underprivileged firms as can meet the Government's needs, and 2) contractors are required to follow Federal procurement policies and regulations when acquiring ADP goods and services for the Government.

Since this is an issue of great concern to this Committee and other members of the Congress, I would hope that you could complete your review in an expeditious manner.

With best wishes, I am

Sincerely,

 JACK BROOKS
 Chairman



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

Date: July 8, 1980

To: See Distribution Below

From: DAA/BD

Subject: "Brokering" of ADP Hardware

Met with officials of the GAO on 7/3/80, to discuss their concern that "brokering" was occurring in the ADP Hardware procurements under the Section 8(a) program.

GAO personnel in attendance:

H. Vernon Davis	633-0145	Review Team Leader
Dr. Carl Palmer	275-6187	Review Team Director
Bob Parker	275-3150	Office of General Counsel

Federal agencies have the authority to contract Section 8(a) for ADP Hardware under the 8(a) program.

GAO officials believe that agencies may be contracting under Section 8(a) for the equipment even though Federal Supply Schedule contracts were available from which to purchase the equipment. (Possibly to meet their agencies' 8(a) goals.)

If this is the fact, then our 8(a) firms involved would be involved in a "brokering" operation to obtain the equipment - simply purchasing from the manufacturer and reselling to the Government. Manufacturers of ADP Hardware are normally large business firms.

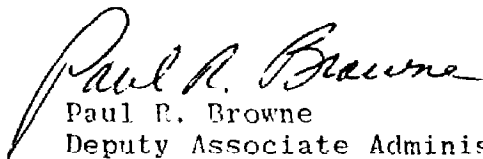
It is our position that ADP Hardware may be contracted for under the 8(a) program when the 8(a) firm is also performing a related service or function related to the equipment - other than purchasing - such as, training of personnel, etc.

Since this type of procurement normally is controlled by our Office of Acquisition here in Central Office, please be advised that we should not be accepting agencies' requirements for ADP Hardware for the 8(a) program when 100% of the task involves purchase of equipment only, especially when the equipment is

"Brokering" of ADP Hardware

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available from established Federal contracting sources of supply - such as the Federal Supply Schedules. When requirements are received for "Professional Services" that involve ADP Hardware acquisition, please be sure the procurement requires our 8(a) firm to provide the Federal agencies with "services" related to the equipment. Query agencies in writing if in doubt.


Paul R. Browne
Deputy Associate Administrator
for Business Development



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