



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

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Dear Mr. Schmitz:

This is our report in response to your request of March 3, 1972, that the General Accounting Office investigate the use of General Services Administration (GSA) contracts for procurement of electronic instruments and laboratory equipment. 17

In a letter dated February 22, 1972 (see enclosure), one of your constituents stated that Federal Supply Schedule contracts were awarded without true competition and orders were placed against these contracts on a sole-source basis with minimum justification and without specifications or considerations of program requirements.

Our examination showed that, for selected commercial products sold to the general public by many suppliers, GSA (1) solicits offers from a substantial number of suppliers, (2) negotiates with each responsive supplier, and (3) awards contracts to those suppliers which, in GSA's view, offer terms and conditions favorable to the Government. The contracts for these commercial items are negotiated, rather than formally advertised, because Federal specifications have not been developed. Some agencies have established procedures to obtain justification for the procurement of other than the lowest cost equipment.

INTRODUCTION

The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471) made GSA responsible for the procurement of common-use supplies and services for Federal agencies in the executive branch. The Federal Supply Service performs GSA's procurement and distribution mission through (1) a stores stock program for replenishment of supplies stocked in GSA depots for shipment to Federal agencies when needed, (2) a program of direct delivery from suppliers to Federal agencies under definite-quantity contracts, and (3) indefinite-quantity term contracts listed in Federal Supply Schedules--called Schedule contracts--which are used by Federal agencies to place orders directly with listed suppliers.

GSA uses Schedule contracts for commercially available items when stockage or definite-quantity contracts are not

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feasible or when definite-quantity contracts offer no advantage for such reasons as infrequent ordering of the items, difficulty of forecasting requirements, and inability to develop Federal specifications. More than 700,000 items are available, and during fiscal year 1971 orders placed against Schedule contracts amounted to about \$1.5 billion.

The purpose of Schedule contracts is to obtain more favorable prices for the Government by offering suppliers a potentially larger sales volume than could be offered if each agency were to contract for its own supply needs.

We interviewed GSA officials, reviewed applicable Federal procurement regulations, and examined selected Schedule contract files. We also interviewed officials of, and examined selected orders placed against Schedule contracts by, the National Aeronautics and Space Administration, the National Institutes of Health, the Department of Defense, and the Veterans Administration because these agencies purchase large quantities of instruments and laboratory equipment.

AWARD OF SCHEDULE CONTRACTS FOR INSTRUMENTS AND LABORATORY EQUIPMENT

Instruments and laboratory equipment are in Federal Supply Classification (FSC) Group 66 covering over 190,000 items in 11 Schedules under about 500 contracts. During fiscal year 1971 purchases amounted to \$77 million. The products listed in FSC Group 66 include such items as voltmeters, oscilloscopes, generators, and recorders.

GSA has determined that Schedule contracts for certain types of commercially available instruments and laboratory equipment should be negotiated multiple awards, rather than formally advertised awards to a single acceptable offeror, because adequate Federal specifications and standards are not available for varying requirements of the many agencies with respect to type, quality, and size of product.

In negotiating the multiple-award contracts in effect during fiscal year 1972, GSA requested approximately 3,400 suppliers to submit their catalogs or price lists and the prices and terms under which they were willing to sell their products to the Government. The suppliers were required to provide information on their sales to non-Government customers and to certify that the prices offered to GSA were based on

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established catalog or market prices and that substantial quantities of the items had been sold to the general public at those prices.

GSA has a policy that contracts will not be awarded to suppliers unless discounts from catalog prices and other concessions are given to the Government and these concessions are at least equal to those given the suppliers' most favored customers. Under GSA's procedures for negotiating the multiple awards, GSA groups the offers by type of supplier, such as manufacturer or distributor, and compares the offers to determine which supplier within each group offered the most favorable concessions, such as discounts from catalog prices, prompt payment discounts, warranties, and delivery terms. GSA then negotiates with each responsive supplier to obtain additional concessions. When GSA believes that it has negotiated the most favorable terms and conditions obtainable, it awards a contract to that supplier and to other suppliers offering equal concessions.

AGENCY CONTROLS OVER ORDERS
PLACED AGAINST SCHEDULE CONTRACTS

Use of the Schedule contracts for procurement of instruments and laboratory equipment is generally mandatory for Federal agencies in the executive branch and optional for agencies in the legislative and judicial branches of the Government. Each Schedule specifies the executive agencies which are required to place orders against Schedule contracts.

The Department of Defense has statutory discretion to exempt itself from procurement through GSA sources when such exemption is in the interest of national defense. Defense regulations list those Schedules which are mandatory for the military services and defense agencies. Exceptions are provided for certain items covered by military specifications.

Agencies may not procure from commercial sources directly until they determine that the needed item, or a similar item serving the same functional purpose, is not available through a Schedule contract. When use of Schedule contracts is mandatory, direct procurement from commercial sources is authorized if (1) the delivery provisions offered in the Schedule do not meet the agency's requirements or (2) the quantity or dollar amount needed is less than minimum orders or more than maximum orders specified in the Schedule.

Special arrangements are to be made with GSA when agency needs exceed the authorized maximum order limitation. When two or more items available through the Schedule will satisfy an agency's requirements, the agency is required to select the least costly item or to justify purchase of the higher cost item.

There is a wide variety of instruments and laboratory equipment available through the Schedule. Many of these items are highly technical, and personnel requisitioning new equipment frequently specify the brand and model of equipment desired. In many cases the requisitioners are provided technical information by suppliers' sales representatives.

The agencies that we visited require using personnel to prepare purchase requests for needed equipment. The purchase requests are reviewed by the operating official responsible for the use of the equipment and by technical and purchasing personnel familiar with other equipment which might be suitable. If it appears that less costly equipment could serve the requisitioner's needs, additional information on the intended use is required before a purchase order is issued to the Schedule supplier.

We noted, in agency records, instances where less costly equipment was purchased because of recommendations by persons reviewing the purchase requests. For example, an incubator costing \$1,969 was requested for purchase. The purchasing agent noted that a similar incubator was available at a cost of \$1,591. She brought this to the requisitioner's attention and required that additional justification be submitted for purchase of the more costly incubator. The requisitioner accepted the substitution of the least costly incubator.

CONCLUSIONS

For instruments and laboratory equipment available through Schedule contracts, Federal specifications have not been developed to provide a basis for competitive bidding and award to the lowest responsible bidder. GSA officials believe it would be impractical to establish specifications because of the Government's varying requirements for these items. Accordingly, GSA has determined that, for various types of instruments and laboratory equipment, the negotiation of indefinite-quantity term contracts with more than one supplier is the best method for satisfying agency requirements.

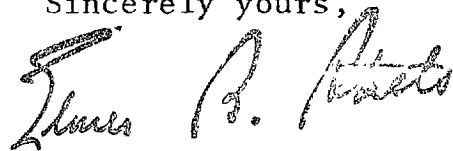
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The contracts with each supplier, however, are for different types and sizes of equipment at different prices. Thus, even though GSA may obtain favorable terms for suppliers' products, the contract awards are not based on price competition because suppliers are not competing for a contract to be awarded to the lowest responsible bidder.

Nevertheless, the prices negotiated by GSA may be reasonable from the standpoint that they are more favorable than catalog or listed prices at which substantial sales of these items have been made to the general public. GSA regulations require agencies to order from Schedule contracts the least costly equipment which will satisfy their program requirements.

We trust that the foregoing information is responsive to your request. In view of the magnitude of GSA's purchases of common-use products and services, we are planning more extensive examinations into the Federal Supply Service's procurement activities. Significant matters developed from these examinations will be reported to the Congress.

Sincerely yours,



Comptroller General
of the United States

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Enclosure

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The Honorable John G. Schmitz
House of Representatives