United States General Accounting Office
Washington, DC 20548

July 2, 2001

The Honorable Tom Davis
Chairman
Subcommittee on Technology and Procurement Policy
Committee on Government Reform
House of Representatives

Subject: *FTS2001 Implementation Issues*

Dear Mr. Chairman:

As you know, GSA awarded FTS2001 contracts to Sprint and MCI WorldCom to provide long distance telecommunications services to federal agencies. The federal government began the sizable and complex effort of transitioning from the existing FTS 2000 contracts to FTS2001 in June 1999. This transition is presently nearing completion. In your letter of May 3, 2001, you asked that we respond to several follow-up questions pertaining to your Subcommittee's April 26, 2001, oversight hearing regarding the FTS2001 contracts. My responses to your questions follow below.

> Question 1: How feasible would it be to build into future contracts an accountability mechanism that may include penalties that the General Services Administration (GSA) could apply against the contractors' guaranteed minimum revenue over the life of the contract? What is the feasibility of renegotiating the current contracts?

Answer: It is feasible to include an accountability mechanism in future contracts that include such civil penalties as provisions for credits or liquidated damages. It is also feasible to modify the current FTS2001 contracts to include such an accountability mechanism, because federal acquisition law does permit such modification of contracts (although such action would require negotiations with, and the agreement of, the contractors). We should make it clear, however, that the existing FTS2001 contracts already include accountability mechanisms, in both specific and general terms.

As we stated in our report of last March,[1] the existing FTS2001 contracts establish specific performance requirements,[2] including timeliness of service delivery,

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[1] *FTS2001: Transition Challenges Jeopardize Program Goals* (GAO-01-289, March 30, 2001).
[2] These terms are stated at paragraph H.13 of the FTS2001 contracts.

availability of services, quality or grade of service, and restoration of failed or degraded service. However, the contracts provide that these basic performance requirements not take effect until the FTS2001 transition is complete, thereby restricting the government's ability to hold the contractors accountable for performance shortcomings during the transition period.[3] Thus, the FTS2001 transition delays that have occurred to date not only had a financial effect but have also delayed the effective date of these specific contract terms and conditions.

Beyond these specific requirements, the FTS2001 contracts contain additional terms and conditions establishing accountability for failure to provide service or meet contract requirements. For example, the contracts include a default termination clause that permits termination of the contracts in whole or in part. Rather than terminating the contracts, the government can instead ask for consideration from the contractor. This consideration could take any mutually agreed upon form, including price reductions or a reduction in a contractor's minimum revenue guarantee (MRG). We recommended in our report that GSA take action to obtain consideration for failure to meet management information and billing requirements within the time frames established in the FTS2001 contracts. GSA concurred with this recommendation. According to GSA, it is still examining the record of FTS2001 contractors' performance to date to determine what specific action may be appropriate.

> Question 2: How can GSA prevent future billing problems? Is this a problem caused by lack of database software used to collect and organize the information or a personnel management issue?

Answer: As we reported to you in March, one factor inhibiting transition progress was the lack of accurate, up-to-date billing information and the improper billing of services. This problem is not unique to FTS2001—it is common among users of telecommunications services. This problem is not attributable to personnel management or to a lack of database software. Rather, billing problems often arise from changes in contracts and services such as those that took place during the FTS2001 transition. According to GSA, these issues also arise because of differences between the contractors' commercial billing practices and the practices that government agencies are accustomed to, which are reflected in contract requirements. In that regard, there has been a "learning curve" for both the contractors and the government on billing matters during transition. In the case of FTS2001, GSA also waived the test and acceptance of one contractor's billing system for an indefinite period because of the desire to move forward with contract implementation, and did not promptly resolve billing problems that arose with both contractors.

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[3] Specifically, the contract states that these requirements "…will not apply to services being transitioned from the FTS2000 network to the FTS2001 network; services being migrated to FTS2001 from networks other than FTS2000 during the FTS2001 initial transition; or new service starts on the FTS2001 that may take place during the initial transition and startup of FTS2001."

The best way to reduce the effect of billing problems is for GSA to hold the contractor responsible for resolving such problems promptly when they arise. The billing problems we identified adversely affected FTS2001 transition progress because their resolution was not prompt.

GSA is taking steps to resolve current billing problems. It is tracking issues as they arise, and it is currently trying to resolve 12 issues still outstanding with Sprint and MCI WorldCom, including the problem of commercial billing that we reported. In addition, GSA's Office of Inspector General has recently begun a review of the FTS2001 billing area, which might also identify ways to prevent future billing problems.

> Question 3: Was the legitimacy of the databases that supported the transition process from FTS2000 to FTS2001 inaccurate? Do you think this is the sole reason for transition delays?

Answer: The lack of information needed to accurately and appropriately manage and measure transition progress was one of the factors that contributed to FTS2001 transition delays. This issue was one of lack of access to information, however, rather than of its accuracy. Specifically, while GSA developed an automated system to help track transition data and develop reports, the FTS2001 contractors did not furnish GSA with the data it needed to populate that management system's database. According to GSA, it also had difficulty obtaining information from one of the FTS2000 contractors during the initial transition planning. As a result, GSA and agency transition managers did not receive the timely and up-to-date information they needed to effectively plan and manage transition activities.

This was not the sole reason for transition delays. Additional factors contributing to transition delays included the inability to rapidly add transition-critical services to contracts, the slow pace at which agencies ordered services, contractor customer support problems, and the inability of local telecommunications providers to deliver services and facilities as scheduled.

> Question 4: The MRGs have been slowed significantly due to delays in the transition to FTS2001. Is it true that MCI and Sprint will not meet their MRGs until 2004 and 2006 respectively? Further, doesn't this point to limited competitive opportunities for another three to five years for other companies that are ready and able to offer the government low prices and advanced technological services/products?

Answer: We estimate that MCI WorldCom and Sprint may meet their MRGs in fiscal years 2003 and 2004, respectively (contract years five and six). Our estimate is based on FTS2001 revenues accumulated through April 2001, and assume no significant change in the demand for services from either contractor. An analysis recently prepared by GSA staff reached a similar result.

Even if MCI and Sprint do not meet their MRGs in fiscal years 2003 and 2004, however, that result may not point to continued limited competitive opportunities for the FTS2001 program. GSA's position has been that it would not wait until the MRGs were completely satisfied before allowing additional competitors to cross over into FTS2001; rather, it would make that determination when it was reasonably assured that the MRGs would be satisfied within the potential 8-year contract period. At the April 26, 2001, hearing on FTS2001 implementation, the FTS Commissioner, Ms. Sandra Bates, testified that GSA would begin accepting proposals this summer from qualified contractors who wish to offer FTS2001 long distance services, that is, those providing local telecommunications services under the GSA's Metropolitan Area Acquisition program. Therefore, if GSA follows through on those statements, competitive opportunities under the FTS2001 program would no longer be limited.

> Question 5: Do the deviations from the FTS2001 requirements identified by GAO represent the only deviations from contract requirements permitted by GSA? If not, what others are there?

Answer: The only permitted deviation from the FTS2001 requirements that we identified in our report was GSA's decision to waive ordering and billing system test and acceptance requirements for MCI WorldCom in order to allow it to more quickly receive and process service orders. To the extent that other contract requirements were not met when required—such as other billing problems encountered with both contractors, and the failure to provide management information when required—we recommended in our report that GSA obtain consideration from the contractors in accordance with the FTS2001 contracts' terms and conditions.

> Question 6: What is the impact on the FTS2001 procurement, and competition in general, of GSA's relaxation of FTS2001 contract requirements?

Answer: As we mention in our response to question 5, we identified in our report only one deviation from contract requirements that GSA permitted. Specifically, that one deviation was GSA's decision to waive the requirement that MCI WorldCom's billing and ordering system be tested and accepted before order processing could begin. As we reported to you in March, several factors contributed to FTS2001 implementation delays. We reported that GSA's decision to waive the acceptance testing of MCI WorldCom's billing system contributed to billing problems and thus was one of the factors contributing to FTS2001 implementation delays.

In addition, those instances where other contract requirements were not met do not represent out of scope contract modifications on GSA's part, and therefore do not cast doubt on the original contract competition. This issue was addressed in a protest filed with GAO by AT&T on May 25, 2001, alleging that GSA had relaxed or waived FTS2001 requirements and specifications in a manner that materially altered the fundamental nature and purpose of the FTS2001 contracts.

The decision of GAO on June 14, 2001, dismissed the protest as a "contract administration" matter beyond our protest jurisdiction, and untimely in any event.[4] We concluded that AT&T had not shown that the modifications to the FTS2001 contracts were beyond the scope of the original contracts: "The objectives and scope of the FTS2001 contracts remain unchanged despite the alleged poor performance of the contractors: the same services are being provided notwithstanding the alleged relaxation or waiver of those requirements."

> Question 7: During this period of transition, how much revenue that would have been included under the FTS2001 Program was not as a result of transition delays?

Answer: According to GSA revenue reports, approximately $159.8 million was billed to the government under the FTS2000 contracts from December 2000 through April 2001. In comparison, about $236.4 million was billed under the FTS2001 contracts during the same period. Not all of that FTS2000 revenue would have been included under the FTS2001 program had transition not been delayed, because the lower prices offered under the FTS2001 contracts would reduce that amount. According to GSA, about $46 million in revenue will not be included under the FTS2001 program because the transition extended beyond December 2000.

In addition to the questions set forth in your May 3, 2001, letter, you also asked during the hearing that we examine GSA's estimate of savings lost to the government due to transition delays. GSA FTS Commissioner Bates testified at the hearing that about $74 million in savings was lost due to delays in completing the FTS2001 transition. As I indicated to you at the hearing, we have reviewed and evaluated GSA's derivation of that estimate and the supporting documentation. On the basis of this analysis, we found the $74 million estimate to be reasonable.

In providing oral comments on a draft of this letter, the GSA FTS Assistant Commissioners for Acquisition and for Service Delivery generally agreed with the information presented. We have incorporated GSA's comments where appropriate.

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During the course of our work to address the questions posed in your May 3 letter, we reviewed the documentation we prepared in support of our earlier report to you. We also met with the GSA FTS Assistant Commissioner for Acquisition and with other FTS2001 program management staff to obtain documentation of revenues accrued to date, estimated time lines for satisfying contract minimum revenue guarantees, and actions being taken to resolve billing issues. We also obtained documentation from GSA supporting its estimate of lost FTS2001 savings and discussed the logic used and steps followed to derive that estimate with the staff from Mitretek Systems, who prepared that estimate for GSA. We independently estimated time lines for satisfying contract minimum revenue guarantees based on FTS2001 revenue documentation

[4] *AT&T Corporation*, B-287931, June 14, 2001.

obtained from GSA. We conducted this work from May 2001 through June 2001 in Washington, D.C., and Fairfax, Virginia, in accordance with generally accepted government auditing standards.

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We are sending copies of this correspondence to the Ranking Minority Member, Subcommittee on Technology and Procurement Policy, and interested congressional committees. We are also sending copies to the Administrator of General Services, and to the Director, Office of Management and Budget. Copies will be made available to others upon request. The correspondence will also be available on GAO's Web site at *http://www.gao.gov*.

If you have any questions regarding this correspondence, please contact me or Kevin Conway, Assistant Director, at (202) 512-6240 or by e-mail at *koontzl@gao.gov* or *conwayk@gao.gov*, respectively.

Sincerely yours,

Linda D Koontz

Linda D. Koontz
Director, Information Management Issues

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