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REPORT TO THE CONGRESS

74-0054



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Use Of Formal Advertising
For Government Procurement
Can, And Should, Be Improved

B-176418

Department of Defense
General Services Administration
Tennessee Valley Authority

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

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096103

AUG. 14, 1973



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

B-176418

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To the President of the Senate and the
Speaker of the House of Representatives

This is our report entitled "Use of Formal Advertising for
Government Procurement Can, and Should, Be Improved."

We made our review pursuant to the Budget and Accounting
Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of
1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office
of Management and Budget; the Secretary of Defense; the Adminis-
trator of General Services; the Chairman of the Board, Tennessee
Valley Authority; the Secretaries of the Army, Navy, and Air Force;
and the Director, Defense Supply Agency.

A handwritten signature in cursive script, reading "Thomas P. Atkins".

Comptroller General
of the United States

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ABBREVIATIONS

ASPR	Armed Services Procurement Regulation
DSA	Defense Supply Agency
DOD	Department of Defense
FPR	Federal Procurement Regulation
GSA	General Services Administration
IFB	Invitation for bid
SBA	Small Business Administration
TVA	Tennessee Valley Authority

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

USE OF FORMAL ADVERTISING
FOR GOVERNMENT PROCUREMENT
CAN, AND SHOULD, BE IMPROVED
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D I G E S T

WHY THE REVIEW WAS MADE

Congressional hearings, speeches, and articles frequently cite problems Government agencies face in using formal advertising for procurement. In this report, GAO attempts to (1) identify problems that limit competition and increase costs to the Government and (2) offer suggestions to the Government agencies for more effective and less costly use of this method of procurement.

GAO reviewed procedures and practices of the Department of Defense (DOD), the General Services Administration (GSA), and the Tennessee Valley Authority (TVA) in using formal advertising for bids.

FINDINGS AND CONCLUSIONS

Agency procedures limit competition

For the 138 contracts examined at 8 procurement agencies, 8,956 suppliers were solicited. Only 8 percent submitted bids. Fifty-three contracts were awarded on the basis of three or fewer bids.

This low bid rate indicates that agencies' methods for attracting bids could be improved. Causes for the low response follow.

--Bidders lists were based on broad categories of items and did not

reveal the relatively few sources capable of bidding for a specific item. (See p. 8.)

--Previous bidders were not regularly solicited. (See p. 15.)

--Advertising in the Commerce Business Daily was not timely, and the published description of supplies or services required was insufficient to elicit bids. (See p. 17.)

--The causes for the low number of bids were not evaluated to increase competition for future procurements. (See p. 20.)

--Restrictive specifications or purchase descriptions were used repeatedly. (See p. 24.)

--The complexity of invitations discouraged suppliers from bidding. (See p. 25.)

--Bidders were given insufficient time to bid. (See p. 28.)

--Bids were rejected because of minor discrepancies. (See p. 30.)

GAO concluded that routinely following procedures for formal advertising does not always insure effective competition. The procurement officers need to give closer attention to how well their formal advertising practices achieve the maximum practicable competition.

Opportunities to reduce administrative costs

The administrative cost of formal advertising includes the costs of maintaining bidders lists; preparing and mailing invitations; and receiving, recording, and analyzing bids.

Opportunities to reduce these costs were evident because:

- 41 percent more invitations for bid (IFBs) were prepared for distribution than were used. (See p. 31.)
- About 50 percent of the pages in the IFBs were standard contract provisions which were repeated from one solicitation to another. (See p. 31.)
- Furnishing more than two copies of the IFB to the firms solicited was unnecessary. (See p. 31.)
- 92 percent of the solicitations mailed to firms did not result in bids. (See p. 31.)

GAO believes that, if its suggestions for correcting these conditions are adopted, DOD and the civilian agencies could save several million dollars annually.

RECOMMENDATIONS OR SUGGESTIONS

GAO recommends that DOD and GSA, the major agencies responsible for procurement policy, instruct procurement offices and agencies to:

- Establish a program in each procurement office to selectively review the extent of competition achieved under formal advertising and take aggressive action to stimulate competition where it appears

to be restricted. GAO believes that the actions listed on pages 40 and 41 would be helpful in increasing competition.

- Establish a work simplification program in each procurement agency to (1) solicit only previous bidders or suppliers and firms that request IFBs, (2) simplify and shorten IFBs, and (3) reevaluate the requirements for distributing IFBs. (See p. 41.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

Comments on GAO's recommendations and suggestions were obtained from DOD, GSA, TVA, and the Small Business Administration (SBA). Analyses of their comments and GAO's evaluation are included in this report. 2

GSA and DOD agreed in general with GAO on the problems found but did not always agree with the suggested solutions. Both agencies were concerned about the additional regulation and control that GAO seemed to be suggesting.

GSA said that these problems could be solved by educating personnel at the operating levels of procurement.

DOD said many of the suggestions had been considered previously, would be costly, would add to procurement time, and would create additional paperwork.

TVA said it did not have the problems discussed in this report.

SBA officials agreed with GAO on the problems and solutions suggested. They wanted it clearly stated that GAO's suggestions should not be construed to mean the discontinuance of various programs to assist small

business participation in Government procurement, a point with which GAO concurs.

GAO agrees with GSA that educating personnel is necessary to implement sound administration. But GAO believes the agencies should achieve more genuine competition in formal bidding at lower administrative costs and reiterates its recommendation to establish programs within each major procurement agency to increase

competition and simplify and streamline formal advertising.

MATTERS FOR CONSIDERATION
BY THE CONGRESS

Although GAO is not asking the Congress to take action on the basis of this report, GAO believes that the use of formal advertising will be strengthened if the improvements identified in this report are implemented.

CHAPTER 1

INTRODUCTION

The General Accounting Office (GAO) has completed a study of the practices and procedures used by various Government agencies in the formal advertising method of procurement. From time to time problems associated with this method of procurement have been cited in congressional hearings, speeches, and articles by prominent individuals. Our work was directed to problems limiting competition and unnecessarily increasing the cost of this method. The problems disclosed were not found at each location visited, and we did not attempt to determine the incidence of the problems outside of the awards selected for review. However, we believe that the problems are sufficiently representative as to require attention by agency officials, as suggested throughout this report.

The Congress believes the Government's interests are best served when the maximum amount of competition practical for a particular procurement is achieved. Procurement by formal advertising, when feasible, offers the best opportunity for full and free competition.

Formal advertising is one of two basic methods of procurement employed by the Government. Procurement by negotiation permits discussion of a proposal; formal advertising requires inviting suppliers to submit a firm bid price for a specified product or service.

Invitations for bids (IFBs) are furnished to suppliers on bidders lists and to suppliers responding to advertisements in the Commerce Business Daily and public postings. Suppliers must be given sufficient time to prepare and submit bids before the time set for public opening. A contract is awarded to the responsible supplier submitting the lowest responsive bid. Obtaining the maximum number of responses, by giving all sources the opportunity to compete, avoids favoritism or collusion. All bids received may be rejected if the agency determines this to be in the public interest.

In fiscal years 1971 and 1972, formal advertising was used for 12.4 and 10.8 percent, respectively, of the total value of Government procurements. In fiscal year 1972, the

Government awarded contracts valued at about \$5.4 billion by formal advertising and at about \$44.4 billion by negotiation.

Historical data on the development of the formal advertising method is included as appendix I.

CHAPTER 2

OPPORTUNITIES TO OBTAIN MORE EFFECTIVE COMPETITION

The greatest benefit formal advertising offers is obtaining a large number of responsive bids from responsible sources who are independently competing. The probability of obtaining the lowest available price increases as the number of bids received increases.

However, a small number of bids may indicate that available sources had not been given the opportunity to bid or that the sources are indeed limited. For 138 contracts examined at 8 locations, 8,956 sources were solicited by IFBs but only 8 percent submitted bids. Of these contracts, 53 were awarded on the basis of 3 or fewer bids. This low bid response indicates that the bidders lists and advertising in the Commerce Business Daily may not effectively attract bids from suppliers who can furnish the required supplies or services.

The RAND Corporation also reported a low bid response rate in its study performed for the Air Force. In 2,309 formally advertised contracts awarded by the Air Force, RAND found that 1,017 were awarded on the basis of single bids.¹

Our study showed some causes for this low bid response.

- The procurement agencies structured their bidders lists by broad categories of items and did not identify the relatively small number of suppliers who were capable of bidding for a specific item.
- Previous suppliers or bidders were not regularly solicited.
- Advertising in the Commerce Business Daily was not timely, and the published description of the proposed procurement was not sufficiently descriptive to elicit bids from suppliers.

¹ A Study of Formally Advertised Procurement No. RM 4984-PR, June 1966, by Sidney S. Handel and Robert M. Paulson, prepared for the U.S. Air Force by the RAND Corp., Santa Monica, Calif.

- Postbid verification that full and free competition had been achieved was not performed.
- Procurement agencies repeatedly used specifications or purchase descriptions which limited competition.
- Complexity of IFBs discouraged suppliers from bidding.
- Insufficient time was provided to prepare and submit bids.
- Bids were rejected because of minor discrepancies.

We submitted our suggestions for improvement to the Department of Defense (DOD), the General Services Administration (GSA), and the Tennessee Valley Authority (TVA) for comment. Copies of their comments are in appendixes II, III, and IV, respectively. Informal comments were also obtained from the Small Business Administration (SBA). For those suggestions with which they disagreed, we have included in the applicable section of the report their comments and our evaluation.

ESTABLISHING NEW BIDDERS LISTS TO IDENTIFY PREVIOUS SUPPLIERS AND BIDDERS

Bidders lists are established according to commodity groups and classes as provided in the Federal Supply Classification Handbook. A procurement office may also establish a bidders list for a subclass of items.

For example, one commodity group--Instruments and Laboratory Equipment--contains nine classes of items. One class--Electrical and Electronic Properties Measuring and Testing Instruments--includes such subclasses as generators, amplifiers, calibrators, and special instruments. At one procurement office, a bidders list is maintained for special instruments, including adapters, couplers, detectors, diodes, resistors, switches, testers, and transducers. This bidders list contains the names of over 600 suppliers which make one or more of these items.

Potential suppliers wishing to have their names placed on such lists must submit a Bidders' Mailing List Application (Standard Form 129) to each of the Government procuring

activities with which they would like to do business. The application shows class of equipment, supplies, materials, and/or services available from the supplier.

A potential supplier requesting an application is generally provided with a supplemental form for annotating the various classes or groups of material that are purchased by the procurement office. The supplier indicates on this form the groups or classes of material which it supplies.

A potential supplier is placed on the bidders lists according to the class of equipment requested on the application. This is generally done without determining which specific items in the class can actually be furnished because the specific item is not shown on the application.

When a procurement officer selects a bidders list for soliciting bids for an item to be procured, he may know that some of the suppliers listed make the required item but he has no way to identify them. As a result, the procurement officer does not know which or how many suppliers can compete and, therefore, competition cannot be insured.

To determine whether suppliers on the bidders lists were capable of bidding, we selected 10 procurements in which 328 firms were solicited but only 33 bids were received. We sent questionnaires to 295 firms which were solicited but did not bid to ask if they made these items. Of the 152 replies received, only 62, or about 40 percent, stated they made the items.

By restructuring the present bidders lists to accurately identify suppliers with the items they can furnish, the procurement agencies would be able to solicit appropriate sources and identify those items where competition needs to be increased. We recognize, however, that many items are procured; this makes the task of developing individual bidders lists for each item a monumental and costly endeavor.

As a more feasible solution, we believe that the existing bidders lists should be modified to identify from previous procurements the suppliers and bidders who can furnish the items. The opportunity for any interested supplier to bid can, in our opinion, be preserved by other

means of publicizing proposed procurements. This system not only should identify suppliers capable of bidding but, by reducing the number of solicitations, should result in savings. (See ch. 3.)

Suggestions

- Establish a new set of bidders lists based on previous procurements which would identify and include only previous suppliers and bidders for specific items.
- Continue to solicit all other interested suppliers on the basis of individual requests which result from advertising in the Commerce Business Daily and public postings. The names of these suppliers should be added to the new bidders lists only when they submit bids.

Agencies' comments and GAO's evaluation

DOD

GAO

1. There are advantages in soliciting firms which do not bid, i.e., the occasional receipt of low bids which offset the cost of the additional solicitations and the distribution of information to firms seeking subcontract opportunities.
2. The Army is testing a new procurement technique to determine the feasibility of eliminating or modifying the bidders list.
3. The Air Force is testing an automated system for bidder identification which hopefully will provide an expanded source of capable and responsive bidders.

1. The indiscriminate solicitation of firms which may or may not bid is a costly practice. A purchasing office having specific knowledge of potential suppliers could solicit them directly. Through advertising, firms which are not solicited can still submit low bids. The use of bid packages as a means of advertising opportunities for subcontracts is a costly and unnecessary practice. Such advertising is one of the primary purposes of the Commerce Business Daily.
2. In its test, the Army is relying solely on advertising in the Commerce Business Daily and in selected public places to obtain competition. We believe that the Army's new procurement technique would be more effective if, instead of relying solely on advertising, the Army solicited previous suppliers and bidders. This would insure that known interested sources are aware of the procurement.
3. As an alternative to our suggestion to solicit only previous suppliers and bidders, we considered using a centralized, automated bidders list system. The transition to such a system cannot be accomplished, however, until the bidders lists have been correctly established so that specific items are identified with specific suppliers.

GSA

1. A bidders list containing only previous suppliers and bidders would have an adverse effect on competition by reducing the actual number of bids received.
2. The suggested new bidders lists would preclude the establishment of source lists for new items.
3. The suggested new bidders lists would have to provide for other suppliers who have requested to be included.
4. Suppliers who are on the new bidders lists would have to acknowledge receipt of the solicitation and indicate a desire to remain on the list or be dropped from the list.
5. If GAO intended to eliminate the Bidders Mailing List Application (Standard Form 129),

GAO

1. The present system produces less effective competition than the system we suggest because many firms are solicited which do not produce the required item and previous suppliers and bidders are not regularly solicited.
2. Advertising adequate descriptions on a timely basis and soliciting known sources would be an effective way to obtain competition for new items.
3. We agree that firms which are not previous suppliers or bidders should be given an opportunity to request a bid package; however, this should not require that they be included in the list of previous suppliers and bidders unless they become active bidders.
4. Bidders need not respond to every solicitation to be retained on the list of previous suppliers and bidders. But a system of removing the names of firms which no longer bid should be adopted to maintain a current list of truly interested suppliers.
5. Form 129 should be retained, and the Commerce Business Daily should routinely notify firms that this

GSA

salient information on the bidders' capabilities would be lost. Sole reliance on the Commerce Business Daily may leave some important sources untapped.

6. If the bidders list application is replaced by a procedure requiring the submission of a bid in order to be placed on the bidders list, the validity of bids may be questionable.
7. GSA has recently established a new, less costly solicitation procedure. Complete bid sets are sent only to selected active bidders, i.e., previous suppliers and bidders. All other firms are given brief notices of procurement which enable them to request a complete bid package if they wish to bid.

TVA

1. The present bidders lists are in sufficiently narrow commodity groups to make them relatively free of nonsuppliers and non-bidders. A further reduction in the bidders lists is not practicable.

GAO

application should be included in their request for a bid package. We do not believe, however, that this form alone, without a subsequent bid, should permit firms to be included on the revised bidders list.

6. We recognize that some token bids may be received but believe that there are greater advantages in soliciting firms that are sources and will bid than the present procedure of soliciting firms that are not sources for the desired item.
7. GSA's recently revised solicitation procedure is very similar to that which we suggest.

TVA

2. TVA adds to its lists the names of new successful bidders as well as those of unsuccessful bidders upon request. A revision is being considered whereby any firm which has requested a bid package will be given an opportunity to be put on the list if it submits a bid.

SBA

1. To insure that new suppliers are given an opportunity to bid, improvements in the Commerce Business Daily should be accomplished before the bidders lists are revised to include only previous suppliers and bidders.
2. Any new solicitation procedure should not preclude SBA's practice of submitting the names of potential suppliers to the purchasing offices for the purpose of soliciting these firms on specific procurements.

GAO

believe TVA can benefit from improvements in the restructuring of its standard lists which include the most commodities.

2. TVA's proposed revision generally conforms to our suggestion.

SOLICITING PAST SUPPLIERS OR BIDDERS

Agency regulations provide that the purchasing activities establish bidders lists, except where requirements (1) can be obtained within the local trade area through simplified procedures for small purchases or (2) are nonrecurring. The regulations also provide that all eligible and qualified suppliers--who have submitted bidders list applications or whom the purchasing activity considers capable of filling the requirements of a particular procurement--shall be placed on the appropriate mailing list.

In implementing these regulations, the purchasing activities we visited placed the names of suppliers on the bidders lists only after they received formal requests or as a result of the buyers' knowledge of suppliers' interest and capabilities. Previous bidders and suppliers who failed to submit the required application might be overlooked for a new procurement if bid response records of prior procurement actions were not readily available.

We found that bid response records were not routinely prepared by procurement personnel. Instructions had not been issued to inform buyers of the need to refer to earlier procurements to insure that prior bidders and suppliers were considered for new solicitations. In some cases, past suppliers could not be ascertained because bid response records were not maintained.

Where past suppliers and bidders had not been solicited, some awards were made on the basis of receipt of single bids. If the past suppliers had been solicited, the number of procurements for which a single bid was received might have been reduced and more effective competition could have been obtained. Examples follow.

Procurement records indicated that 19 firms were solicited to bid for 11,480 dome vent assemblies. Only two of the firms solicited had previously supplied the item, and only one submitted a bid. Two other firms which had previously supplied the item were not solicited.

Sixteen firms were solicited to bid for 881 portable acid storage batteries. Only one of the firms had previously supplied the item. Two firms which had previously supplied

the item and one firm which had previously bid unsuccessfully for the procurement were not solicited.

Suggestion

- As an alternative to establishing a new set of bidders lists based on previous bidders and suppliers (see p. 10), maintain procurement history records and solicit all previous bidders of the item.

Agencies' comments and GAO's evaluation

GSA

- 1. Except for small purchases (under \$2,500) principal procurement activities should maintain procurement histories. But failure to maintain these records should be treated as exceptions to good procurement practices and not become a basis for additional regulatory material.

TVA

- 1. It is less burdensome and more efficient to maintain active and viable bidders lists than to maintain history records.

SBA

- 1. Any new solicitation procedure should not interfere with the continuation of the Small Business Set-Aside Program.

GAO

- 1. We believe that the importance of soliciting previous suppliers warrants specific instructions to purchasing officials.

- 1. We agree that, if bidders lists are maintained so that only active bidders are included, procurement history records are not needed. However, until bidders lists are so maintained, procurement history records are useful in determining the bidders to be solicited.

- 1. We do not suggest that the solicitation of all previous suppliers and bidders conflict with or in any way replace or modify the Small Business Set-Aside Program. Set-asides are identified early in the procurement phase and should be handled separately.

MORE EFFECTIVE USE OF THE
COMMERCE BUSINESS DAILY

In addition to sending out IFBs to those on the bidders lists and posting procurement notices in Government offices, defense procurement offices are required to advertise procurements over \$10,000 in the Commerce Business Daily. For most civil agencies, the requirement applies to procurements over \$5,000.

The Commerce Business Daily informs industry about current Government contracting and subcontracting opportunities. This publication identifies Government contracting offices and prime contractors having current or potential requirements for specific types of products or services. This assists small business and labor surplus area concerns and broadens industry participation in Government procurement programs.

Our review showed that the bid response rate from potential suppliers who wrote for bid packages was no better than the bid response rate from sources who were solicited directly from the bidders lists. The low bid responses to public announcement is attributable to (1) publicizing an inadequate description of the desired item and (2) publicizing the proposed procurement insufficiently in advance of a bid opening to allow bidders time to submit bids. We found that some firms were not aware of the Commerce Business Daily function.

Most suppliers receiving questionnaires replied that they used the Commerce Business Daily to keep informed of proposed Government procurements. However, 30 percent of the 93 replies said there was a need to describe the items advertised in more detail. The suppliers suggested including additional data--such as Federal stock numbers, applicable specifications, dimensions, metallic content, and manufacturer's part number of the required items--that would help the suppliers more readily identify exactly what the Government desired to procure.

For example, two items were described in the Commerce Business Daily as follows:

53--STUD, CONTINUOUS THREAD. Various Federal Specifications - 30400 - Various Destinations - S/O DSA-500-69-B-6806 - Solicitation opening 20 Jun 69.

61--CABLE, TELEPHONE. Various Specifications and Commercial Part Numbers--620000-ft-Variou Destinations--S/O DSA-500-69-B-6611 - Solicitation opening 5 Jun 69.

The first item actually involved only one specification. This specification and the metallic substance of the required item were not cited. In the second example, "Various Specifications" were cited when it was a brand name or equal item.

Regulations provide that proposed procurements be synopsisized in the Commerce Business Daily at least 10 days before solicitations are issued to allow firms not on the bidders lists ample time to obtain the solicitation package and to prepare and submit their bids. This, however, was not always done. For 65 of 100 contracts examined, the notice did not appear in the Commerce Business Daily until the solicitations were issued.

About 41 percent of the 90 business firms that replied stated that not enough time was allowed between the publication date and the bid opening date. Sometimes a supplier must request additional technical data not included in the bid package. This may take up to 10 days, which in conjunction with the short time between advertisement and bid opening, may prohibit bidding.

Suggestions

- Emphasize to procurement officials that, when feasible, a more complete description of the item should be published in the Commerce Business Daily at least 10 days before IFBs are issued.
- Stress to potential suppliers that they can subscribe to the Commerce Business Daily and advise them how they can become aware of other matters dealing with formal advertising.

Agencies' comments and GAO's evaluationDOD

1. The length of descriptions in the Commerce Business Daily is a matter of judgment. Additional information can be obtained from the procurement office by the prospective bidder.
2. The regulations already provide that, when feasible, descriptions be synopsisized at least 10 days before issuance of the solicitation.
3. Advising potential suppliers on how to sell to the military is an everyday activity through the small business specialist, "Business Opportunity Conferences," and the distribution of pamphlets. (GSA and TVA made similar comments.)

GSA

1. Item descriptions which are prepared in accordance with the minimum information requirements contained in Federal Procurement Regulations (FPR) 1-1.1003-7 should be sufficient. A recent spot check by the Department of Commerce found that agency compliance for item descriptions in the Commerce Business Daily was very good.

TVA

1. Leadtimes are not sufficient for publishing item descriptions in the Commerce Business Daily before issuing solicitations. It is more practicable to extend the bidding time than to publish a proposed procurement before solicitations.

GAO

1. Although the length and content of the description of a proposed procurement involves judgment, we suggest that the product of this judgment be tested periodically by evaluating the number and appropriateness of responses to these descriptions. An adequate description would minimize the need for the bidder to request additional information.
2. We recognize that regulations provide leadtimes for publicizing procurements. However, since 84 percent of all of the procurements we reviewed in DOD were not synopsisized at least 10 days prior to solicitations, it appears that action is needed to improve performance.
3. We acknowledge that agencies already have many programs to advise and educate active and potential suppliers. The suggestion to have these programs was made to emphasize their importance and to obtain each agency's response that these programs do exist.

1. Our study showed that a substantial number of the suppliers we questioned were dissatisfied with prescribed item descriptions. After receipt of GSA's comment, we were informed by a Commerce Business Daily official that the agency submissions of item descriptions had not improved since the time of our study.

1. We believe that generally proposed procurements should be published at least 10 days before solicitations. If leadtimes are not sufficient, efforts should be made to publish procurements as soon as possible and provide for more bidding time.

EVALUATING LOW NUMBER OF BID RESPONSES
TO REMOVE RESTRICTIONS TO
FULL AND FREE COMPETITION

The degree of confidence that effective competition is being achieved in formal advertising depends on certain conditions.

- A complete, adequate, and realistic specification or purchase description must be available.
- There must be two or more suppliers which are willing and able to compete effectively for the Government's business.
- The selection of the successful bidder can be made on the basis of price alone.
- There must be sufficient time to prepare a complete statement of the Government's needs and the terms on which it will do business and sufficient time allowed the bidders to prepare and submit their bids.

The determination of whether these conditions are present is made prior to the solicitation.

After a bid opening, bids are evaluated and an award is made to the responsible bidder found to have submitted the lowest responsive bid. All bids may be rejected if it is in the best interest of the Government to do so.

The procurement regulations require that, before the contracting officer awards the procurement to the lowest bidder, he determine whether (1) the bid conforms in all respects to the essential requirements of the IFB and (2) it can be reasonably anticipated that the bidder has the capability to satisfactorily perform under the terms of the IFB.

We found that contracting officers are not required to formally consider prior to the award whether the prerequisites of formal advertising have been met. As a result, contracting officers have awarded contracts on the basis of

a small number of bids which should have indicated that some or all of the prerequisites of formal advertising might have been absent. As examples:

- 31 out of 34 awards using "brand name or equal" specifications resulted in single bids. (See p. 24.)
- 53 out of 138 awards were based on 3 or fewer bids. (See p. 7.)

Thirty percent of suppliers questioned indicated insufficient time was allowed to prepare and submit bids. (See p. 28.)

We believe that a postbid evaluation of the presence of the prerequisites of formal advertising should be made where three or fewer bids have been received. We recognize that, in some situations, three or fewer bids may constitute full and free competition, but we suggest this evaluation as a management criterion.

Suggestion

- Determine, prior to award, that all the basic prerequisites of formal advertising are present whenever a small number of bids has been received. When the determination is negative, the contracting officer should correct the causes of the low bid response to increase competition for future procurements.

Agencies' comments and GAO's evaluation

DOD

GAO

- | | |
|--|--|
| 1. GAO's suggestion is not acceptable because (a) it would create further paperwork, (b) there would be little beneficial result, and (c) the determination that the prerequisites of formal advertising are present has been made | 1. (a) An increase in paperwork would be restricted to those procurements where a small number of bids has been received. If there are many such procurements, then it is indeed important that the causes of limited competition should be ascertained. If the workload |
|--|--|

DOD

before solicitation.
(GSA made similar comments.)

GAO

is too heavy, it may be necessary at the outset to perform this evaluation only on procurements resulting from single bids.

(b) Procurements that result in limited bidding should be evaluated to determine the causes and to correct them.

(c) The determination that the required conditions for formal advertising are present before contract solicitation is necessary. However, if there are indications that less than adequate competition has been obtained, a postbid evaluation may indicate the corrective action needed for future procurements.

GSA

1. Steps should be taken to correct causes of limited competition where known; most agencies analyze procurement actions on a continuing basis to improve procurement processes.

TVA

1. TVA currently examines circumstances where single bids are received or where the quoted prices appear to be out of line with reasonable estimates. TVA will consider expanding this policy to cases where three or fewer bids are received. However, TVA's authority to negotiate is somewhat more restrictive by statute.

GAO

1. We found no evidence in the cases examined that there was a continuing evaluation of specific procurements to identify and correct causes of limited competition.

1. We believe that TVA's limited authority to negotiate would not hinder its policy to examine the circumstances of limited competition or to take corrective action.

ELIMINATING REPEATED USE OF
RESTRICTIVE AND INCOMPLETE SPECIFICATIONS
AND PURCHASE DESCRIPTIONS

Before an IFB can be issued, specifications or purchase descriptions must define the required item in detail. These descriptions must be clear because, under formal advertising, all bidders are competing to supply the same item and discussions between the Government and the potential bidder are not permitted.

The regulations specify that the minimum acceptable purchase description used in lieu of specifications is the identification of an item by a brand name followed by the words "or equal." Regulations provide that there must be sufficient descriptive language and attachments to permit full and free competition. A review of procurements that used specifications to describe a particular supplier's product or cited a brand-name-or-equal purchase description showed that single bids were received in 31 of 34 procurements.

Single bids were received repeatedly for the same items, and the procurement agency did not attempt to revise specifications or purchase descriptions. For example, a floor-mounted, high-speed milling machine had been procured exclusively from one supplier. For the last 3 advertised procurements for this machine, 68 sources were solicited but only 1 bid was received (from the same supplier) for each procurement. The buyer stated that the requirement was advertised because technical personnel had judged the descriptive data suitable for advertising. For this reason, the feasibility of broadening specifications was not considered.

We interviewed officials of the other suppliers that received IFBs but did not submit bids. They said that the specifications called for machine characteristics which were unique to the firm supplying the item.

Of 100 suppliers who responded to our questionnaire on specifications, 49 stated that they knew of specific instances in which they were unable to bid because specifications, purchase descriptions, or drawings were not sufficiently descriptive. This response indicates that improvements are needed in specifications used in formal advertising.

Suggestion

- Monitor bid solicitations which elicit limited responses to identify and improve specifications which restrict competition. When there is a low bid response rate after a brand-name-or-equal purchase description was used, broader specifications should be developed, if feasible or practical.

Agency's comments and GAO's evaluation

GSA

1. Bid solicitations which result in limited response need to be monitored to identify and improve specifications. This is being accomplished to the extent resources are available. Until adequate specifications can be developed, the Government must resort to brand-name-or-equal purchase descriptions.

GAO

1. The use of restrictive specifications may be one of the major causes of limited competition; positive action is needed to correct it. It is important that the limited available resources are used effectively. We suggest that the agencies identify the most significant procurements where specifications have restricted competition; try to develop better specifications for higher value procurements; and, if unsuccessful, consider negotiation rather than formal advertising.

SIMPLIFYING LENGTHY AND COMPLEX IFBs

Under formal advertising, interested suppliers are sent IFBs which specify the conditions of a proposed procurement. By providing the information requested by the Government and by mailing the invitation on time, the supplier submits a bid which, if accepted by the Government, constitutes a binding contract. In most cases, the IFBs we reviewed were lengthy and complex, difficult to fill out, and susceptible to error.

IFBs contain general instructions on bidding, descriptions of the item and quantities needed, citations to the applicable drawings and/or specifications, and the contract provisions. Some Government procurement personnel and suppliers said they were reluctant to bid on formally advertised procurements because of the overwhelming number of pages in the invitations.

We noted that to reduce the number of pages one agency developed a clause book to be used by reference in lieu of placing standard clauses in the IFB. The clause book was made available to potential suppliers. The agency claims this book alone will save \$60,000 annually in printing costs.

Our examination of contracts showed that the same IFB format was generally used for all formally advertised procurements regardless of their value. IFBs ranged from 15 to 150 pages. The number of pages of contract clauses which repetitively appeared in all IFBs ranged from 27 to 70 percent of the total.

Many of the clauses have blank spaces which bidders are required to fill in. The bidder inserts such data as the time of delivery, place of manufacture, inspection and shipping point, and shipping weight. Clauses containing these fill-ins are scattered throughout the IFB, making it difficult for the bidder to find and fill in the required blanks.

An oversight in filling in a blank could result in a bid being considered nonresponsive. For instance, we found that a supplier was declared nonresponsive because he failed to include the domestic shipping weight figures which were to be inserted on pages 137 and 138 in the solicitation package.

Suggestions

- Develop a simplified and uniform IFB that references standard contract provisions.
- Place all clauses containing fill-ins in the fore-section of the IFB.
- Develop a Government-wide contract clause book or master solicitation document containing standard

contract provisions to be furnished to potential bidders on a one-time basis and to be updated periodically.

Agencies' comments and GAO's evaluation

DOD

- 1. Contracting officers are presently authorized to incorporate references to a number of contract clauses which are contained in section VII of the Armed Services Procurement Regulation (ASPR). The Defense Supply Agency Master Solicitation Program allows clauses to be prepositioned with suppliers. The ASPR Committee has three case studies underway to further extend the use of the master solicitation technique, to develop a uniform contract format, and to broaden the application of incorporating contract provisions and clauses by reference. (GSA made similar comments.)

GAO

- 1. It is not sufficient to provide authority to procurement offices to simplify the IFB by referencing standard clauses. A concerted effort involving policy-level procurement officials of major Government agencies is needed to plan and successfully implement a program to simplify Government contracts.

GSA

- 1. It is a valid and worthwhile suggestion to move fill-in blanks to the front of the IFB. DOD has deviated from FPR to do so.
- 2. Although the use of clause books may be successful in isolated cases, it is questionable whether the cost of printing, distributing, and updating clause books would be significantly less than reproducing the clauses in every solicitation. It is doubtful that the average bidder has the resources to maintain a clause book with its multitude of changes. This will result in criticism from industry and small business.
- 3. The use of clause books will probably result in less competition because of the added cost in the bidding process.

- 1. GSA should adopt the DOD program to move the fill-in blanks to the front of the IFB.
- 2. We believe that changes to contract clauses should be limited to twice a year for all Government agencies. This could be done with a formal industrywide notification through a clause book or similar system with little burden on bidders' resources.
- 3. We believe that industry would find this system less costly than the present and often changing system of new contract provisions.

TVA

- 1. The use of clause books is not practical because of the large number of different conditions various agencies use. The updating and distribution would be a monumental task and would lead to frequent controversy as to what was actually the content of the contract.

- 1. Our suggestion is to develop a Government-wide clause book of standard contract clauses; if agencies have requirements for special or unique clauses, they would have to incorporate them separately in the solicitation.

PROVIDING BIDDERS WITH MORE TIME
TO SUBMIT BIDS

Agency regulations state that all IFBs should be distributed in time to give bidders an adequate opportunity to prepare and submit their bids before bid opening. Not less than 15 days is recommended for standard commercial items, and not less than 30 days is recommended for more complex items.

Although the 15- and 30-day criteria for bid opening were generally followed, the suppliers' replies to our questionnaire indicate that more time is desired. Of 124 answers on the subject, 36 (or nearly 30 percent) stated that sufficient time was not allowed. The procurements we examined showed that some of the solicited firms notified the procurement offices that they were not bidding because of the insufficient time allowed. Contracts we reviewed showed that procurement personnel took an average of 98 days to process a procurement, while suppliers were only given an average of less than 28 days to respond.

We identified 57 late bids which were postmarked before the bid opening and which, according to the regulations, would have been accepted had certified mail been used. Apparently, some suppliers are not aware of these regulations.

Suggestions

- Reevaluate the current practices to determine if the bid response periods should be increased.
- Emphasize to suppliers that use of certified mail will insure that their bids will be considered if mailed in advance of bid opening.

Agencies' comments and GAO's evaluation

DOD

1. The ASPR Committee is reviewing the bid-response period and is considering further emphasis of the use of certified mail. In fairness to all bidders, the bids must be in by a specified time to eliminate any opportunity for competitive advantage.

GAO

1. We agree with the need to avoid opportunities for competitive advantage that may result from late bids. However, suppliers interested in bidding should be given sufficient time to bid.

GSA

1. The bid response periods prescribed in the FPR take into account the time required by various agencies. However, these agencies are not precluded from lengthening the bid period. Contractors bonafide complaints about short bidding time can be handled by extending the bid opening date.

1. We do not know whether 98 days for internal processing is reasonable. However, on the basis of comments by the suppliers, the agencies should consider providing more than 15 or 30 days for bidding on individual procurements whenever conditions warrant.

GSA does not believe that the agencies' 98 days compared to the bidders' 28 days, as described in the GAO report, is out of line with the agencies' internal needs in processing the procurement. The contractor is in a better position, considering his years of experience, to respond with a bid in less time than the agency needs for the more complex and time-consuming activity of preparing the IFB.

TVA

1. The bid preparation time is based on the complexity of the procurement and the number of potential suppliers. On the basis of requests from bidders, the time is extended, if necessary, to get adequate competition.

1. We found that TVA had the highest bid response rate but the shortest time for suppliers to bid. We believe that TVA's success results from other factors, such as more specific bidder lists. A general policy of extending the bid opening time is not, by itself, a substitute for providing sufficient time for suppliers to bid.

IMPROVING BID SOLICITATION PROCEDURES
SO THAT BIDS WILL NOT BE REJECTED
FOR MINOR DISCREPANCIES

We found that the lowest bids were sometimes rejected as nonresponsive because of minor discrepancies which, in our view, can be anticipated and avoided. The Government paid higher prices totaling \$149,000 for five contracts because lower bids were rejected as nonresponsive due to omission of data or inclusion of delivery terms different from those required by the solicitation. The discrepancies included failure (1) to show a charge for a contract item when obviously intending to have this covered by the total bid price and (2) to include shipping weight data.

Contracting officers are not authorized to accept bids that are made nonresponsive by such deviations or omissions. However, the deviations could have been prevented had the contracting officer included the data and terms to be used as contractual provisions if specific required data were not filled in by the bidder.

For example, solicitations requiring fill-ins for shipping weights could include a provision citing preestablished weights to be used as substitutes for the missing data. In this way, any bid which failed to include this data would be responsive.

As another example, solicitations for a hardware component and related data items--such as technical literature and progress reports--could state that the bidder should insert a separate price for any line items of data if the items are not included in the price of the hardware component.

Suggestion

- Emphasize to contracting officers that bid discrepancies need to be anticipated by including in the solicitation document special provisions which will help reduce the number of nonresponsive bids and increase competition.

CHAPTER 3

OPPORTUNITIES TO REDUCE COSTS

The administrative costs of formal advertising consist of maintaining bidders lists; preparing and mailing solicitations; and receiving, recording, and analyzing bids. The cost for each procurement varies with the number of IFBs prepared, the number of pages in each IFB, the number of IFBs mailed to each firm, and the number of firms solicited.

Opportunities to reduce these costs were evident because:

- 41 percent more IFBs were prepared for distribution than were used.
- About 50 percent of the pages were standard contract provisions.
- Furnishing more than two copies of the IFB was unnecessary.
- 92 percent of the firms receiving solicitations did not bid.

If DOD and the civilian agencies adopt our suggestions for correcting these conditions, they could save several million dollars annually.

REDUCING THE NUMBER OF IFBs PREPARED

In the absence of overall guidance, agencies have independently established a fixed number of IFBs to be prepared. We observed that more copies than necessary were prepared for most procurements. Of 25,875 copies prepared for the 109 DOD contracts we examined, 10,672, or 41 percent, were not used.

<u>DOD offices</u>	<u>IFBs prepared</u>	<u>IFBs distributed</u>	<u>Not used</u>
1	7,799	5,592	2,207
2	3,353	1,635	1,718
3	7,664	4,716	2,948
4	2,520	1,328	1,192
5	1,964	1,000	964
6	<u>2,575</u>	<u>932</u>	<u>1,643</u>
	<u>25,875</u>	<u>15,203</u>	<u>10,672</u>

The number of copies of the basic IFB (excluding technical data) prepared for distribution can be reduced 41 percent by periodically evaluating and revising the number prepared.

Suggestion

--Periodically evaluate and revise, on the basis of current use, the number of IFBs prepared.

Agencies' comments and GAO's evaluation

DOD

1. The number and cost of copies to be prepared must be balanced against the cost of reprinting or refusal to provide a bid set to a prospective bidder. This is a matter of operational judgment at each procurement activity.

GAO

1. We agree but believe that, on the basis of the number of unused IFB copies, the number of copies prepared can be reduced to approximate current use.

GSA

1. GSA agrees with the intent of the suggestion but believes it should not be a regulatory matter. The individual agencies should be taking action to bring the reproduction requests in line with the actual requirements.

1. We believe that GSA should emphasize to its procurement offices and to other agencies that savings are possible by reducing the number of unused copies.

TVA

1. TVA continually evaluates its needs for IFB copies and makes appropriate adjustments.

1. Although TVA does not print as many excess copies as DOD and GSA, there were instances in which TVA could have saved money.

REDUCING THE NUMBER OF PAGES

We analyzed IFBs at six purchasing offices to determine the percentage of pages covering standard contract provisions.

<u>DOD offices</u>	<u>Average number of pages</u>		<u>Percentage stand- ard provisions to total IFB</u>
	<u>In each IFB</u>	<u>That are standard contract provisions</u>	
1	20	14	70
2	29	12	41
3	69	27	39
4	37	10	27
5	29	15	52
6	39	27	69

By implementing our suggestions to simplify the IFB and distributing standard contract provisions by other means (see p. 26), the agencies could reduce the size of the IFB by 47 percent.

The agencies' comments on this matter are shown on page 27.

REDUCING THE NUMBER OF COPIES MAILED

A solicitation package consists of several copies of the IFB plus the technical data describing the item being purchased. We found that the number of copies sent to firms varied.

Currently, the Navy and Defense Supply Agency (DSA) send firms three copies of the IFB in a solicitation package. The Air Force and Army send two.

We discussed with DSA and Navy purchasing officials the feasibility of sending two rather than three copies. They agreed it was possible if the Finance Centers would no longer need an original copy. The Air Force and Army, however, have overcome this problem by sending to the Finance Center the original copy after using it to reproduce copies they need for their own files. The Air Force has followed this practice for a number of years, and the Army adopted this practice in March 1972.

Suggestion

- Develop uniform requirements for all procurement agencies to send no more than two copies of the IFB to each firm.

Agencies' comments and GAO's evaluation

<u>GSA</u>	<u>GAO</u>
1. This suggestion is not considered feasible for civilian executive agencies because of dissimilar contract distribution requirements. An alternative suggestion would be to require periodic reviews of their internal requirements and to strive to reduce the number of copies. (TVA made a similar comment.)	1. Dissimilar requirements among various agencies can be adequately handled by duplication of the returned signed copy after bid opening.

NOT SOLICITING SOURCES THAT DO NOT SUPPLY THE ITEM

We found that, for all agencies, 92 percent of the firms solicited did not submit a bid and, for DOD, 86 percent did not. The number of solicitations could be reduced by not soliciting suppliers who do not supply the item.

We suggested in chapter 2 (see p. 10) that a new set of bidders lists be developed on the basis of previous procurements and that the Commerce Business Daily and public postings be used to provide other interested firms with an opportunity to bid. This would prevent initial solicitation of firms that do not supply the item.

The agencies' comments and our evaluation are shown on page 11 to 14.

CHAPTER 4

AGENCIES' GENERAL COMMENTS

DOD and GSA provided several additional comments of a general nature.

DOD

Although DOD is in accord with some of the suggestions in the report, the GAO sample was too small to be representative of the conditions cited.

A statistical sample of all Government actions was not taken because agency statistics on procurements by formal advertising are not available. Our study attempted to identify formal advertising problems which require management attention. For example, most Government procurement agencies place potential bidders' names on lists which contain a broad range of items. There would be little benefit in proving statistically that, under such a system, suppliers who do not make the particular item will be solicited.

We believe our sample and our discussions with knowledgeable people in and out of the Government provided sufficient insight to identify major problems. We believe that responsible DOD officials should recognize that these problems are restricting competition and increasing the cost of formal advertising and should take necessary steps to correct them by adopting our suggestions or developing alternative solutions.

GAO's observations that bidders lists were too broad, advertising was not timely, specifications were too restrictive, IFBs were too complex, and bidders were not given sufficient time to bid are only indicative of other problems, many of which are outside of procurement.

We agree that the source of some of the problems discussed in this report is outside of procurement. But these problems are not outside of the responsibility of the general field of logistics. The problems we found become known during the procurement process, and corrective actions should be initiated there regardless of the problems' sources.

The procurement leadtime is already too long, and several of GAO's suggestions would lengthen--not shorten--it.

If adoption of our suggestion severely affects leadtime, DOD should gradually implement our suggestions (see pp. 21 and 22) or develop alternative ways to resolve the problems.

GAO's suggestions to increase competition conflict with other suggestions to eliminate paperwork and reduce costs.

We do not agree that any of our suggestions (in ch. 2) to increase competition conflict with the specific suggestions (in ch. 3) to reduce costs. Our suggestion, however, that contracting officers should determine after bid opening the extent of competition and take corrective action may--for a time--increase administrative cost and paperwork. But this increase will depend on the extent of the problem. In this respect, DOD has said that increased competition would result in lower prices. Thus, higher administrative costs may be offset.

DOD is reluctant to implement a wide range of policy and procedure changes until after the issuance of the report by the Commission on Government Procurement due at the end of 1972.

After we received DOD's comments, the Commission issued its report. Since the Commission's report did not deal with the problems discussed in this report, DOD should act on our suggestions.

DOD believes its comments to GAO's various suggestions show that the military services and the ASPR committee are acting to improve competition and simplify, where feasible, the procurement practices. In addition, through the efforts of the DOD Procurement Management Review Group, problem areas in formal advertising are revealed and corrective action is taken where warranted.

Although DOD said that it is studying some of the problems discussed in this report, it doesn't seem to agree

that most of the problems we believe are significant need attention. Contrary to DOD's comment, we did not find that the problems discussed in this report were contained in Procurement Management Review Group reports.

GSA

GSA is aware of the problems identified in GAO's report. It believes that these problems result from the absence of good procurement management and not the absence of procurement regulations. It believes this situation can best be corrected through education of those responsible for the procurements.

The manner in which GSA corrects these problems is largely up to GSA. Whether solutions require changes in regulations or practices is a matter of judgment. However, definite action is required at a sufficiently high management level to resolve the problems cited.

GAO's report should be addressed only to the affected agencies with a recommendation for additional training of procurement personnel.

Our study was not intended to criticize the agencies whose procurements we examined. Its purpose was to identify Government-wide problems and to suggest solutions. The report, therefore, should interest all Government agencies which use formal advertising and the Congress which has expressed its preference for this method of procurement.

GSA has a continuous program to selectively review the extent of competition. It is accomplished by periodic purging of bidders lists, use of the Commerce Business Daily, and efforts of the GSA Business Service Centers.

We believe that all agencies that use formal advertising can benefit from a continuous program to selectively review the extent of competition, to stimulate it where necessary, and to reduce administrative costs.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

The purpose of formal advertising is to give all persons equal opportunity to compete for Government contracts and to prevent favoritism or collusion in awarding contracts. Therefore, invitations and specifications for the needed item should permit individuals to compete on a common basis.

Government procurement regulations contain implementing instructions which are generally followed at the procurement offices we visited. Although these policies are sound, they do not automatically insure that the objectives of formal advertising are achieved.

It cannot be assumed that meaningful competition has been achieved because the routine procedures for formal advertising have been followed. Procurement offices need to give closer management attention to the effectiveness of their formal advertising practices in achieving the maximum practicable competition.

Procurement offices should not routinely rely solely on bidders mailing lists, as presently structured; the Commerce Business Daily; and other postings to obtain bids. They should aggressively encourage other capable suppliers to participate in bidding.

In chapter 3 we showed that some of the policies and practices of the procurement agencies have resulted in a considerable number of unnecessary and bulky IFBs, with consequent increased cost. Revision of these practices could result in significant savings.

RECOMMENDATIONS

We recommend that DOD and GSA, the major agencies responsible for procurement policy, instruct procurement offices and agencies to:

1. Establish a program in each procurement office to selectively review the extent of competition achieved under formal advertising and take aggressive action to stimulate competition where it appears to

be restricted. We believe that the following actions would be helpful in increasing competition.

- Establish a new set of bidders lists based on previous procurements which would identify and include only previous suppliers and bidders for specific items. (See p. 10.) As an alternative, maintain procurement history records for previous suppliers and bidders and solicit all previous bidders of the item. (See p. 16.)
- Continue to solicit all other interested suppliers on the basis of individual requests which result from advertising in the Commerce Business Daily and public postings. The names of these suppliers should be added to the new bidders lists only when they submit bids. (See p. 10.)
- Determine, prior to award, that all the basic prerequisites of formal advertising are present whenever a small number of bids has been received. When the determination is negative, the contracting officer should correct the causes of the low bid response to increase competition for future procurements. (See p. 21.)
- If the limited response is due to specifications and purchase descriptions which restrict competition, broader specifications should be developed, if feasible and practical. (See p. 25.)
- Develop a simplified and uniform IFB that references standard contract provisions. (See p. 26.)
- Place all clauses containing fill-ins in the foresection of the IFB. (See p. 26.)
- Emphasize to procurement officials that, when feasible, a more complete description of the item should be published in the Commerce Business Daily at least 10 days before IFBs are issued. (See p. 18.)

- Stress to potential suppliers that they can subscribe to the Commerce Business Daily and advise them how they can become aware of other matters dealing with formal advertising. (See p. 18.)
- Reevaluate current practices to determine if bid response periods should be increased. (See p. 28.)
- Develop a Government-wide contract clause book or master solicitation document containing standard contract provisions to be furnished to potential bidders on a one-time basis and to be undated periodically (See p. 26.)
- Emphasize to contracting officers that bid discrepancies need to be anticipated by including in the solicitation document special provisions which will help reduce the number of nonresponsive bids and increase competition. (See p. 30.)

2. Establish a work simplification program in each procurement office to reduce administrative cost by:

- Soliciting only previous bidders or suppliers and firms that request an IFB. (See p. 10.)
- Simplifying and shortening IFBs. (See p. 26.)
- Reevaluating the requirements for distributing IFBs. (See p. 31.)

CHAPTER 6

SCOPE OF STUDY

BEST DOCUMENT AVAILABLE

We performed this study to (1) identify problem areas bearing on the effectiveness and economy of formal advertising procedures and practices and (2) determine changes needed to improve the degree of competition being achieved and to make formal advertising a less costly method of procurement.

We reviewed published data on the historical development and current problems. In addition, we consulted with officials in government (Federal, State, and city), industry, educational institutions, and private practice.

Our study included work at eight DOD and civil activities, listed below, which we considered representative of Government procurement offices.

<u>Activity</u>	<u>Location</u>
Department of Defense:	
Army Electronics Command	Philadelphia, Pennsylvania
Army Tank-Automotive Command	Warren, Michigan
Defense Industrial Supply Center	Philadelphia, Pennsylvania
Naval Regional Procurement Office	Los Angeles, California
Ogden Air Materiel Area	Hill Air Force Base, Ogden, Utah
Ships Parts Control Center	Mechanicsburg, Pennsylvania
General Services Administration	Washington, D.C.
Tennessee Valley Authority	Chattanooga, Tennessee

At these locations we reviewed procurement records for 138 formally advertised contracts awarded from September 1967 through May 1971 and valued at about \$97 million. The contracts were selected from procurement data at each procurement office; 77 contracts were selected at random and 61 contracts on the basis of problems identified in the procurement records.

We considered information developed in a previous review of 80 contracts awarded by formal advertising on the basis of a single bid. These contracts were awarded by six major procurement centers within the Departments of the Army, Navy, and Air Force and the Defense Supply Agency. Examples of these awards are included in this report.

We also sent questionnaires to or visited 295 potential suppliers. The comments received have been incorporated in this report whenever they provided a broader perspective of the subject matter discussed.

DEVELOPMENT OF FORMAL ADVERTISING

The historical preference for formal advertising dates back to President Washington's first term in office when the act of February 20, 1792, was codified. This act contained the first advertising requirement regarding star route mail service contracts of the Postmaster General. Public notices were required to be given in one or more newspapers for at least 6 weeks before the award of the contract.

The act of 1809 expanded the requirement for use of formal advertising. This act provided that:

All purchases and contracts for supplies or services which are, or may, according to law, be made by or under the direction of the Secretary of the Navy, shall be either by open purchases, or by previously advertising for proposals respecting the same; and an annual statement of all such contracts and purchases shall be laid before Congress at the beginning of each year, by the secretary of the proper department.

In these early years the procedures required that proposed procurements for goods and services be published in newspapers.

Later contracts were required to be advertised at least 60 days before award, and the presence of bidders at the bid opening was authorized. On June 23, 1860, a statute was enacted which provided that:

All purchases and contracts for supplies and services, in any of the Departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles * * *.

The purpose of these and subsequent statutes and regulations was to give all persons equal opportunity to compete for Government contracts and thus secure for the Government the benefits which arise from competition. In

APPENDIX I

furtherance of such purpose, bid invitations and specifications for a needed item were required to be proposed so that individuals could compete on a common basis.

As the Government's needs grew more complex, the Congress permitted exceptions in addition to those for public exigency and personal services. Until World War II, the Congress authorized eight additional exceptions permitting procurement by negotiation.

At the close of World War II, a study was initiated to develop peacetime procurement methods. The proposed bill which evolved from that study was transmitted to the Congress by the Acting Secretary of the Navy, who stated that its primary purpose was to permit the War and Navy Departments to award contracts by negotiation when the national defense or sound business judgment dictated the use of negotiation rather than the more rigid formal advertising procedures.

In commenting on the purpose of the bill, the Senate Committee on Armed Services stated:

This bill, as amended, provides for a return to normal purchasing procedures through the advertising-bid method on the part of the armed services, namely, the War Department, the Navy Department, and the U.S. Coast Guard. It capitalizes on the lessons learned during wartime purchasing and provides authority, in certain specific and limited categories, for the negotiation of contracts without advertising. It restates the rules governing advertising and making awards as well as fixing the types of contract that can be made.

The bill was eventually enacted as the Armed Services Procurement Act of 1947. The act was codified in 1956, with minor nonsubstantive amendments, in chapter 137 of title 10 of the United States Code.

Since May 19, 1948, the procurement of supplies and services by the military departments and certain other Federal agencies has been governed by this act which restated the long-standing preference for formal advertising

and established 17 exceptions permitting negotiated procurements. The Armed Services Procurement Regulation implements the act.

The requirements for formal advertising, as set out under the Armed Services Procurement Act of 1947, as amended, are as follows:

1. The advertisement shall be made a sufficient time before the purchase or contract.
2. The specifications and invitations for bids shall permit such free and full competition as is consistent with the procurement of the property or services needed.
3. The specifications and invitations for bids must contain the necessary language and attachments and must be sufficiently descriptive in language and attachments to permit full and free competition; otherwise, the invitation is invalid and no award may be made.
4. Bids shall be opened publicly at the time and place stated in the advertisement.
5. Awards shall be made with reasonable promptness by giving written notice to the responsible bidder whose bid conforms to the invitation and will be the most advantageous to the Government, price and other factors considered.
6. All bids may be rejected if the agency determines that rejection is in the public interest.

The Federal Property and Administrative Services Act of 1949 required the executive agencies of the Government, including GSA, to make all purchases and contracts for property and services by advertising; there were 14 specific exceptions to this requirement. This act also embodied the same basic requirements for formal advertising as cited for DOD.

APPENDIX I

The FPR governs the procurements made by executive agencies; some agencies, such as DOD and TVA, have their own procurement regulations. The TVA act substantially exempts TVA from the requirements of the FPR, although the act does state that such regulations shall be incorporated into TVA procurement regulations to the maximum extent it may deem practical.



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

10 NOV 1972

INSTALLATIONS AND LOGISTICS

Mr. James H. Hammond
Deputy Director Procurement
and Systems Acquisition Division
United States General Accounting Office
Washington, D. C. 20548

BEST DOCUMENT AVAILABLE

Dear Mr. Hammond:

This is in response to your letter of September 11, 1972 transmitting for comment a GAO draft report titled, "Study of the Formal Advertising Method of Procurement," (OSD Case #3521).

GAO reviewed the procurement records for 138 formally advertised contracts valued at \$97 million awarded during four fiscal years FY 1968 through FY 1971. The report indicates that somewhat more than half the contracts examined were selected at random whereas the other half were selected on the basis of problems identified in the records. In addition the report includes procurement actions based on a prior review of 80 contracts awarded under formal advertising. The review encompassed six Department of Defense activities, GSA and the Tennessee Valley Authority. GAO noted that for the 138 contracts examined about 9,000 sources were solicited but only 8 percent submitted bids. GAO concluded that the methods for attracting bids from suppliers could be improved and made a number of suggestions along this line.

A review of 138 contracts valued at \$97 million awarded over four fiscal years involving three different agencies is hardly a large enough sample to be representative of any condition considering that in FY 1972 the Department of Defense alone had 815,832 formally advertised procurement actions valued at \$3.7 billion. Therefore, although we are in accord with some of your suggestions for improvement, we believe the GAO sample was too small to be representative of the general conditions cited.

GAO suggestions for improvement arise from observations as to the causes for low bid response. For example, the report cites such causes as bidders lists were too broad, advertising was not timely, specifications were too restrictive, invitations for bid were too complex and bidders

APPENDIX II

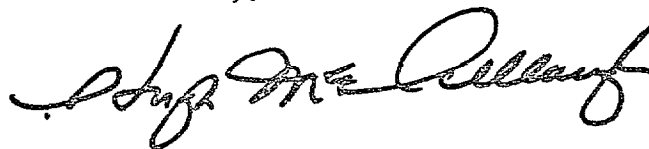
were not given sufficient time to bid. These causes are only indicative of other problems many of which are outside procurement. For example, the user generates the requirement and determines when it is needed. Technical personnel develop specifications and appraise their adequacy for bid solicitation. All elements are affected by the availability of funds and when and how these funds will be expended. Our procurement lead time, unfortunately, is already too long and several of your suggestions for improvement would tend to increase this lead time, not shorten it. This in our view would be a most undesirable result.

The report is seemingly divided into two parts. The first part suggests changes to enhance competition and the second part suggests the elimination of paperwork to reduce costs. We find some conflict in the suggestions that are offered for improvement. For example, it is suggested on page 20 that the contracting officer should make a formal determination before award that all the basic prerequisites of formal advertising are present when three or less bids have been received. In our view, adoption of this suggestion would not increase competition and since this condition is a frequent occurrence it would generate an increase in paperwork far out-weighting any cost savings which might result from adopting other GAO suggestions to reduce paperwork.

We concur that improvements can be made in our competitive procedures. Many of your suggestions have been previously considered and others are under active consideration by the Armed Services Procurement Regulation Committee. The enclosure provides specific comments on your suggestions and recommendations. We are somewhat reluctant at this time to implement on any broad scale a wide range of policy and procedure changes pending issuance of the report by the Commission on Government Procurement due at the end of the year. This report will undoubtedly have a number of recommendations in this area and extensive consideration of changes now may require redoing in the near future. On balance, however, we would expect that the recommendations of the Commission will probably be in accord with a number of your suggestions.

Your review of this matter is appreciated.

Sincerely,



HUGH McCULLOUGH
Acting Assistant Secretary of Defense
(Installations and Logistics)

Enclosure
a/s

DOD COMMENTS ON SPECIFIC SUGGESTIONS
AND RECOMMENDATIONS
GAO DRAFT REPORT
"STUDY OF THE FORMAL ADVERTISING METHOD OF PROCUREMENT"
(OSD CASE #3521)

GAO Suggestions

1. Establish a new set of bidders lists which based on previous procurements would identify and include only previous suppliers and bidders. (Page 13) [See GAO note, p. 56.]
2. Continue to provide solicitation packages to all other interested suppliers on the basis of individual requests which result from advertising in the Commerce Business Daily and public postings. Add the names of these suppliers to the new bidders lists only when a bid has been received. (Page 13) [See GAO note, p. 56.]
3. Procurement history records showing previous bidders should be maintained and all previous bidders of the item should be solicited. (Page 15) [See GAO note, p. 56.]

DoD Comment

The U.S. Army Materiel Command as authorized by the ASPR Committee is performing a test case through the end of Fiscal Year 1973 to determine the feasibility of eliminating or modifying the bidders mailing list. A report on this matter is to be furnished the ASPR Committee about September 1973. We plan to await an evaluation of the test results before considering these suggestions further. The Air Force is now testing an automated system for bidder identification. This system is known as CIAPS - Customer Integrated Automated Program System. Hopefully this system when made operational will provide an expanded source listing information retrieval for selecting capable and responsive bidders.

Bid packages, although designed for the purpose of soliciting bids, offer the recipient who may not bid other collateral benefits. For example, the firm may be looking for subcontract opportunities. From time to time firms do bid that have not bid before with very favorable prices. A few such bids can well offset any paperwork savings in limiting bid lists to only those that have bid before.

GAO Suggestions

4. A formal determination should be made by the contracting officer, prior to award, that all the basic prerequisites of formal advertising are present whenever three or less bids have been received. When the determination is negative, the contracting officer should consider using

post-bid negotiation if he determines the price to be unreasonable and take positive steps to correct the causes of the low bid response for the benefit of future procurements. (Page 20) [See GAO note, p. 56.]

5. Procuring activities should monitor bid solicitations which elicit limited responses, to identify and improve existing specifications which restrict competition. Where a low bid response has been experienced after using a brand name or equal purchase description, develop specifications if feasible. (Page 72) [See GAO note, p. 56.]

DoD Comment

While we are in accord that procurement activities should and do consider the matters that might have caused a low bid response we are of the view that any prescribed procedure to do this throughout DoD would only create further paperwork with little beneficial result. We do not agree that after solicitation but prior to award the contracting officer make a formal determination as suggested by GAO. He has already determined prior to issuing the solicitation that the prerequisites for formal advertising are present. Authority exists to negotiate, should bid prices received after formal advertising be unreasonable. We believe this suggestion would increase paperwork with no subsequent benefit in increasing procurement by the formal advertising method.

GAO Suggestions

6. Develop a simplified and uniform IFB that references standard contract provisions in place of repeating every provision in every solicitation. (Page 23) [See GAO note, p. 56.]

7. All clauses containing fill-in blanks should be placed in the foresection of the IFB. (Page 23) [See GAO note, p. 56.]

8. Develop a Government-wide clause book or master solicitation document containing all standard contract provisions to be furnished to potential bidders on a one-time basis and periodically updated. (Page 23)

[See GAO note, p. 56.]

9. Emphasize to contracting officers that bid discrepancies need to be anticipated by including in the solicitation document special provisions which will help reduce the number of nonresponsive bids and increase competition. (Page 26) [See GAO note, p. 56.]

DoD Comment

Incorporation of clauses by reference is already authorized for clauses in Section VII of ASPR. The DSA Master Solicitation program allows clauses to be prepositioned with suppliers avoiding the necessity of repeating standard and frequently used clauses. The ASPR Committee has under consideration the following matters that relate to the GAO suggestion; further extension of the master solicitation technique under Case 71-88, uniform contract format under Case 71-94, and broader application of incorporation of provisions and clauses by reference under Case 71-122.

GAO Suggestion

10. Periodically evaluate and revise the number of IFBs prepared based on current usage. (Page 29) [See GAO note, p. 56.]

DoD Comment

The number of IFBs to be prepared is a matter of judgment and some balance has to be struck between printing costs and the costs associated with either reprint or refusal to provide a bid set. This is an operational problem which each procurement activity must adjudge for themselves.

GAO Suggestion

11. Develop uniform criteria requiring all procurement agencies to send no more than two copies of the IFB to each firm solicited. (Page 30)
[See GAO note, p. 56.]

DoD Comment

The ASPR Committee is reviewing this matter under Case 72-63.

GAO Suggestions

12. When feasible publish in the Commerce Business Daily a more complete description of the item. (Page 18) [See GAO note, p. 56.]

13. When feasible publish proposed procurements at the time the need for the procurement has been established at the purchasing office or at least 10 days prior to the invitation for bids. (Page 18)
[See GAO note, p. 56.]

14. Stress to potential suppliers not familiar with Government methods that they can subscribe to the Commerce Business Daily, and how they can become aware of other matters dealing with formal advertising. (Page 18) [See GAO note, p. 56.]

DoD Comment

The Synopsis prepared for publication in the Commerce Business Daily is a balance between unnecessary length and terse brevity. It is a matter of judgment. However any prospective bidder may get additional information by contacting the procurement activity identified. As to publicizing proposed procurements timely, ASPR 1-1003.2 provides that when feasible purchasing offices should synopsisize them at least 10 days before issuance of the solicitation.

Advising potential suppliers on how to sell to the military is an everyday activity. One of the major functions of our hundreds of small business specialists is to do just that through face to face contacts. DoD also sponsors "Business Opportunity Conferences" and distributes brochures describing the process of selling to the military.

GAO Suggestions

15. Re-evaluate the current practices to determine if the bid response periods should be increased. (Page 24) [See GAO note, p. 56.]
16. Emphasize to suppliers that the use of certified mail will ensure that their bids will be considered if mailed in advance of bid opening. (Page 24) [See GAO note, p. 56.]

DoD Comment

The ASPR Committee under Case 68-104 is, among other matters, reviewing the bid response cycle and considering further emphasis on use of certified mail. However this is a matter of considerable sensitivity and is in great part the heart of the formal advertised procedure. The point being that in fairness to all the bid must be in by a specific time in order that no opportunity exists for competitive advantage.

GAO Recommendations

17. Establishing a program within each procurement agency to selectively review the extent of competition achieved under formal advertising and take aggressive action to stimulate competition wherever it appears to be limited. (Page 33) [See GAO note, p. 56.]
18. Establish a work simplification program within each procurement agency devoted to (1) developing new bidders lists from procurement histories, (2) simplifying and shortening of the IFB, and (3) re-evaluating the requirements for the distribution of IFBs. (Page 33) [See GAO note, p. 56.]

APPENDIX II

DoD Comment

We believe that our prior comments reflect that action is underway by Services and the ASPR Committee to improve competition and simplify where feasible our procurement process. Procurement activities are continually prodded on this matter by many review activities. DoD Procurement Management Review efforts reveal areas where action by a Command or subordinate activity is warranted.

GAO note: Page references refer to pages in draft report, not in this final report.

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



NOV 30 1972

Honorable Elmer B. Staats
Comptroller General of the
United States
General Accounting Office
Washington, DC 20548

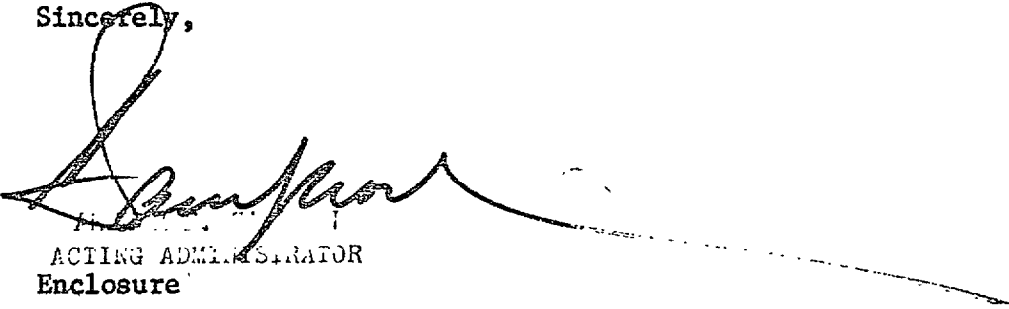
Dear Mr. Staats:

Thank you for the opportunity to comment on your draft report, "Study of the Formal Advertising Method of Procurement."

As one of the major Federal Government procurement activities, we are aware of the problems identified in your proposed report. We believe these problems result from the absence of good procurement management and not from the absence of procurement regulations, either the Federal Procurement Regulations or the Armed Services Procurement Regulations. Many of the practices identified in the proposed report are the result of local administrative requirements which continue to be observed long after the reasons for their existence ceased, or too literal adherence to the regulations without proper regard for the meaning and intent of the regulations. We believe this situation can best be corrected through an educational process directed to those procurement personnel who are responsible for preparing and distributing invitations for bids, and to those who analyze and evaluate the procurement processes within each agency. On this basis, we suggest that the subject draft report be issued only as an advisory report to the affected agencies together with a recommendation for additional training for personnel engaged in procurement by formal advertising.

Our comments on your specific recommendations are attached.

Sincerely,



ACTING ADMINISTRATOR
Enclosure

GENERAL SERVICES ADMINISTRATION COMMENTS
ON GAO DRAFT REPORT - STUDY OF THE FORMAL
ADVERTISING METHOD OF PROCUREMENT

RECOMMENDATION

Establish a new set of bidders lists, based on previous procurements, which would identify and include only previous suppliers and bidders.

COMMENT

We believe this recommendation would have an adverse effect on the amount of competition received on Government procurements. From a statistical point of view, the percentage of responses relative to the number of firms solicited would obviously be better than the present system. However, we feel that such a limited source list would reduce the actual number of responses. In addition, bidders lists based only on previous suppliers and bidders would preclude the establishment of source lists for initial procurements of new items or services. In order to insure all interested suppliers an equal opportunity to participate in Government procurement, your recommendation would have to be expanded to permit suppliers, other than those which have previously submitted bids or had prior contracts, to be included in a bidders listing, upon request. In order to eliminate disinterested suppliers from the listing, all firms listed could be instructed that, if they do not submit a bid after being solicited, they must acknowledge receipt of the solicitation and indicate a desire to be retained on the listing for future procurements, or be dropped from the listing.

RECOMMENDATION

Continue to provide solicitation packages to all other interested suppliers on the basis of individual requests which result from advertising in the Commerce Business Daily and public postings. Add the names of these suppliers to the new bidders list only when a bid has been received.

COMMENT

This suggestion apparently contemplates the replacement of Standard Form 129, Bidder's Mailing List Application, with a bid submitted by a person or business entity desiring to be placed on the bidders list of a procuring activity. There is no advantage to such a change from an existing procedure, and the principal disadvantage is the absence of information contained in the bid regarding the bidder's capabilities, capacity, and other salient information that is now required by the SF 129. Additionally, if the SF 129 is replaced by a procedure requiring the submission of a bid in order to be placed on an agency

mailing list, the validity of bids submitted may be questionable, that is, whether the bids submitted are bonafide bids or token bids submitted solely for the purpose of being placed on a mailing list. This could have serious detrimental effects on the formal bidding procedure and very definitely adversely effect the integrity of the system. Sole reliance on the Commerce Business Daily and public postings may leave some important source untapped.

We note that one of the main objectives of your recommendations on this matter is to make formal advertising less costly. In this regard, GSA recently installed a procedure which already drastically reduces the administrative costs for sending out often necessarily bulky solicitations to all bidders on GSA bidders mailing list. This new procedure calls for mailing complete bid sets to only selected "active bidders," i.e., suppliers which have previously bid on similar solicitations, and former and present contractors for the items in the solicitation. All others on the automated Bidders Mailing List are only given brief notices of procurement which merely advise them of a planned procurement and suggest to them that they should obtain complete solicitation sets if they are interested in bidding. This reduces costs compared with mailing complete bid sets to everyone on the list, yet still maintains a direct link with firms that somewhere along the line had indicated interest, otherwise they would not have gotten on the Bidders Mailing List.

RECOMMENDATION

Procurement history records showing previous bidders should be maintained and all previous bidders of the items should be solicited.

COMMENT

Except in the case of small purchase procedures set forth in the Federal Procurement Regulations Subpart 1-3.6, Small Purchases, we agree all principal procurement activities should maintain historical records of past procurement actions. GSA procurement activities maintain such records. Solicitations should not, of course, be limited to previous bidders. If there are cases in which procuring activities do not maintain historical records, or do not solicit previous bidders, they should be treated as exceptions to general proper procurement procedure, and not be the basis for additional regulatory material.

RECOMMENDATION

A formal determination should be made by the contracting officer, prior to award, that all basic prerequisites of formal advertising are present whenever three or less bids have been received. When the determination is negative, the contracting officer should consider using post-bid negotiation if he determines the price to be unreasonable and take positive steps to correct the causes of the low bid response for the benefit of future procurements.

COMMENT

It is not recommended that a separate formal determination should be made since the processing of such a document would add to administrative costs and lengthen the procurement time cycle. The act of awarding the contract should be all the determination that is needed to show that the prerequisites of formal advertising have been met since the contracting officer's signature is a certification that the procurement is in accordance with applicable laws and regulations, and that all necessary approvals have been obtained. As to a determination that the price bid is unreasonable, present law and regulations provide that procurements may be negotiated without formal advertising where the agency head determines that bid prices after advertising are not reasonable (see Section 302(c)(14) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(14) and 41 C.F.R. Section 1-3.214). It is not recommended that an amendment of the Federal Property and Administrative Services Act of 1949 41 U.S.C. 252(c)(14), be sought to extend this authority to contracting officer level. It is agreed that steps should be taken to correct the causes, where known, of limited participation in the bidding process; however, most agencies perform, on a continuing basis, analysis of procurement actions leading to the development of improved procurement processes.

RECOMMENDATION

Procuring activities should monitor bid solicitations which elicit limited responses, to identify and improve existing specifications which restrict competition. Where a low bid response has been experienced after using a brand name or equal purchase description, develop specifications if feasible.

COMMENT

We agree that there is a valid suggestion, and one that all procurement activities should be following. This is being done within GSA to the extent that manpower resources are available. Developing up-to-date specifications is a matter of evolution. Advances in technology introduce virtually hundreds of new items daily and the same is true for items that are changed, improved or redesigned to incorporate the latest technological developments. To reflect these developments in specifications by necessity takes time and, until such time as adequate specifications can be developed, the Government must resort to the use of brand name or equal procurement; otherwise we would lose the benefits that can be derived from being responsive in our procurements to the latest state of the arts in modern technology.

RECOMMENDATION

Develop a simplified and uniform IFB that references standard contract provisions in place of repeating every provision in every solicitation.

COMMENT

Even though it is possible to develop a simplified and uniform IFB, such an IFB must contain all of the Government's requirements, and all of the terms and conditions that are to be contained in the resulting contract. Both the Federal Procurement Regulations and the Armed Services Procurement Regulation currently contain provisions for incorporating standard contract provisions by reference (see Section 1-16.101). In addition some agency procedures provide for incorporation by reference in the case of agency-developed contract provisions.

RECOMMENDATION

All clauses containing fill-in blanks should be placed in the foresection of the IFB.

COMMENT

This is a valid and worthwhile suggestion that in the interest of improved procurement practices should be adopted and followed by all agencies. It is being tried out by DoD in accordance with a deviation from FPR in its Uniform Contract Format.

RECOMMENDATION

Develop a Government-wide clause book or master solicitation document containing all standard contract provisions to be furnished to potential bidders on a one-time basis and periodically updated.

COMMENT

While the distribution of clause books to potential bidders, and subsequent reference thereto in solicitations, may have met with some success in isolated cases, it is questionable whether the costs of printing, distributing, and updating clause books would be significantly less than reproducing the clauses in each solicitation. It is also doubtful that the average bidder has the administrative resources to maintain on a current basis a clause book and the multitude of changes that would be made. We believe that requiring a potential bidder to refer to an additional Government document beyond the solicitation in order to prepare his bid will result in increased procurement costs, severe criticism (particularly from small business), and unnecessary complication for

APPENDIX III

industry in attempting to deal with the Government. The use of a clause book as proposed would in all probability result in decreased competition because of the reluctance of small business to assume the additional costs involved in the bidding process. It is also pertinent to note that DoD extensively studied the merits of adopting a clause book but did not adopt the arrangement.

RECOMMENDATION

Emphasize to contracting officers that bid discrepancies need to be anticipated by including in the solicitation document special provisions which will help reduce the number of nonresponsive bids and increase competition.

COMMENT

Placing emphasis in this area should be a part of the continuing educational process for procurement personnel in each agency. We do not believe that this suggestion should be incorporated into a procurement regulation related to the preparation of solicitations.

RECOMMENDATION

Periodically evaluate and revise the number of IFBs prepared based on current usage.

COMMENT

While we concur with the intent of this suggestion, we do not deem it necessary to incorporate it specifically in regulatory material related to the preparation of solicitations. Individual agency management should be aware of wasteful procedures and should be taking appropriate action to bring reproduction requests into line with actual requirements.

RECOMMENDATION

Develop uniform criteria requiring all procurement agencies to send no more than two copies of the IFB to each firm solicited.

COMMENT

We do not consider the adoption of this suggestion feasible in the case of civilian executive agencies because of dissimilar contractual document distribution patterns and requirements. However, an alternative approach would be to require agencies to review periodically their internal requirements and to strive to reduce the number of copies being distributed.

For your information, the Federal Supply Service of GSA is using three copies of solicitations to be mailed to "active" bidders with some few exceptions where absolutely necessary. Bidders return two and keep one in their files for their own future reference. Of the two submitted, one is to be returned to the successful bidder or contractor with the contracting officer's signature as the award document. The other is kept in the Government's contract record as its own copy and evidence of the award.

RECOMMENDATION

When feasible publish in the Commerce Business Daily a more complete description of the item.

COMMENT

The Federal Procurement Regulations (Section 1-1.1003-7) prescribes the minimum information to be included in the item description submitted to the Commerce Business Daily. Descriptions prepared in accordance with the guidelines prescribed in the above reference should be sufficient to enable an interested party to understand the general requirements of the procurement action. Those civilian executive agencies that are failing to follow the requirements of the Federal Procurement Regulations in this regard should be so advised; however, the findings leading to this suggestion do not indicate that any changes to the regulations are necessary. It is also pertinent to note that a spot check of agency compliance with CBD requirements was recently completed by the Commerce Department and found to be very good.

RECOMMENDATION

When feasible, publish proposed procurements at the time the need for the procurement has been established at the purchasing office or at least 10 days prior to the invitation for bids.

COMMENT

This is provided in Section 1-1.1003-6 of the Federal Procurement Regulations.

RECOMMENDATION

Stress to potential suppliers not familiar with Government methods that they can subscribe to the Commerce Business Daily, and how they can become aware of other matters dealing with formal advertising.

COMMENT

Information concerning procurement is generally available at the procurement activity, through publications issued by agencies, brochures and directories published by the Small Business Administration and the Department of Commerce, and through literally thousands of associations and private organizations.

GSA supplements the above by having Business Service Centers in each of its 10 Regional offices. The primary function of these Centers is to maintain close relations with the business community in their respective areas. In this capacity they are to help potential contractors by providing exactly the service mentioned in the above recommendation.

RECOMMENDATION

Re-evaluate the current practices to determine if the bid response periods should be increased.

COMMENT

The bid response periods prescribed in the Federal Procurement Regulations are the result of several evaluations and re-evaluations and take into account the requirements of the civilian executive agencies and their procurement time-cycles. However, if any agency finds that longer bid response times will not hamper its operation, that agency is not precluded from setting longer periods to meet specific situations or longer periods as a matter of agency policy. Of course, bonafide complaints that a particular bidding time is too short can be handled by honoring requests from bidders by extending the bid opening date, when feasible. While we do not doubt the statistics in the proposed GAO report that it took procurement personnel an average of 98 days to process a procurement, while suppliers were only given an average of less than 28 days in response time, we do not think that these figures are at all out of line. To establish precisely what is needed; make consolidations for volume buying at best prices; establish the exact quantities or "reasonable" estimates, delivery dates often multiple destinations; incorporate the applicable and most current specifications; ensure that all required contract clauses are properly stated; and all this simultaneously with processing a multitude of other solicitations for other items sold by a completely different range of contractors, must logically be considered as more complex and time-consuming than the preparation of an offer for an item or items for which a particular contractor has been in business for years and often decades and to whom the preparation of offers should not pose too much of an obstacle.

RECOMMENDATION

Emphasize to suppliers that the use of certified mail will ensure that their bids will be considered if mailed in advance of bid opening.

COMMENT

Article 8 of Standard Form 33A states that offers and modifications of offers "...received after the exact hour and date specified for receipt will not be considered unless (1) they are received before award is made and either (2) they are sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained and it is determined by the Government that the late receipt was due solely to delay in the mails for which the offeror was not responsible; or (3) ...due solely to mishandling by the Government after receipt..." etc. We believe that the GAO recommendation is covered by the above citation from existing provisions, but would have no objections to emphasizing the fact that a supplier's bid has a better chance of being considered if it is certified provided it is mailed in advance of bid opening.

RECOMMENDATION

Establishing a program within each procurement agency to selectively review the extent of competition achieved under formal advertising and take aggressive action to stimulate competition wherever it appears to be limited.

COMMENT

This recommendation actually reemphasizes general requirements of the Federal Procurement Regulations regarding obtaining competition. Usually, civilian executive agencies maintain some form of management review to insure that the quality of competition, as well as other aspects of their procurement operations, are being performed satisfactorily. This is a continuous effort within GSA procuring activities and is accomplished by various means, such as periodic purging of existing bidders mailing lists, use of Commerce Business Daily, and the continuing efforts of GSA Business Service Centers.

RECOMMENDATION

Establish a work simplification program within each procurement agency devoted to (1) developing new bidders lists from procurement histories, (2) simplifying and shortening of the IFB, and (3) re-evaluating the requirements for the distribution of IFBs.

APPENDIX III

COMMENT

This last GAO recommendation is a combination of preceding recommendations on which we have provided comments. The development of new bidders lists from procurement histories is being done under procedures which are currently being updated; simplifying and shortening IFBs is a continuous effort which is by necessity limited in its success by the requirement for a multitude of required clauses, terms and conditions to which the Government is committed; and lastly, the requirements for the distribution of IFBs are under constant observation to watch for all possibilities to improve and apply the most economical methods.

These matters are again a reenphasis of general requirements of the Federal Procurement Regulations that should be accomplished through agency implementation and periodic management reviews.

BEST DOCUMENT AVAILABLE

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE

November 2, 1972

BEST DOCUMENT AVAILABLE

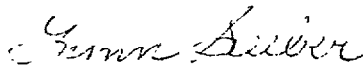
Mr. Philip Charam, Deputy Director
Resources and Economic Development Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Charam:

In response to your letter of September 11, 1972, transmitting copies of a draft report entitled "Study of Formal Advertising Method of Procurement," we have reviewed the draft report and enclose our comments which are directed to the suggestions contained throughout the report. Since TVA's procurement statute (16 U.S.C. § 831h(b)) and practices thereunder are somewhat different from the statutes and practices governing other agencies, we have limited our comments to a consideration of the suggestions as they relate to TVA.

We appreciate your affording us the opportunity to comment on the draft report, and if you have any questions concerning our responses, please call Mr. James L. Williams, Jr., Director of Purchasing, (615) 755-2624.

Sincerely yours,



Lynn Seeber
General Manager

Enclosure

APPENDIX IV

TENNESSEE VALLEY AUTHORITY COMMENTS ON G.A.O. DRAFT REPORT "STUDY OF FORMAL ADVERTISING METHOD OF PROCUREMENT"

Suggestion: Establish a new set of bidders lists which, based on previous procurements, would identify and include only previous suppliers and bidders (page 13).

TVA has developed its bidders lists in sufficiently narrow commodity groups or subgroups so that further reduction does not seem practicable. These lists reflect the past bidding or supply activity for each bidder, and those companies that do not bid on five successive invitations are subject to removal from the list. We feel that our procedures have resulted in bidders lists relatively free of nonsuppliers and nonbidders.

Suggestion: Continue to provide solicitation packages to all other interested suppliers on the basis of individual requests which result from advertising in the Commerce Business Daily and public postings. Add the names of these suppliers to the new bidders lists only when a bid has been received (pages 13 and 14).

In addition to supplying invitations to our bidders list, we provide invitations to those who request them as a result of advertisement in Commerce Business Daily or posting. TVA's present practice is to add to our list a successful bidder who requested an invitation as a result of such advertisement or posting and those bidders who request that they be added to a list for which they are qualified. With respect to adding bidders who request invitations, whether a successful bidder or not, we are considering the establishment of a procedure for automatically sending a bidders list application to each company submitting a bid if it is not already on the list.

For our coal purchasing program the procedure for handling invitations is somewhat different. In addition to posting, a Notice of Invitation To Bid is sent to all known potential suppliers; the actual bid documents are sent only if requested.

Suggestion: Procurement history records showing previous suppliers or bidders should be maintained and all previous bidders of the item should be solicited (page 15).

We have found that the maintenance of an active and viable bidders list is less burdensome and promotes more efficient procurement than retention

on the list of all bidders who have ever bid in response to an invitation. Our practice is to remove a company from our list when it has not bid on five successive invitations or at its request.

In the case of coal procurement, coal suppliers are removed from the notification list at their request or when they cease operations.

Suggestion: When feasible, publish in the Commerce Business Daily a more complete description of the item (page 18).

The need for a more complete description of items published in Commerce Business Daily was brought to our attention during your survey activities. We have attempted to provide more complete descriptions since that time.

Suggestion: When feasible, publish proposed procurements at the time the need for the procurement has been established at the purchasing office or at least 10 days prior to the issuance of the invitation for bids (page 18).

We have found that in only a few instances is it feasible to publish proposed procurements in advance. Lead times for issuing invitations to bid after requisitions are received do not usually allow time for publishing. In general, we believe it would be more practicable to extend the bidding time than to publish a proposed procurement.

In the case of our invitations for long-term coal purchases (contracts for from 1 to 15 years), a Notice of Invitation precedes the issuance of the invitation by a week or ten days.

Suggestion: Stress to potential suppliers not familiar with Government methods that they can subscribe to the Commerce Business Daily, and how they can become aware of other matters dealing with formal advertising (page 18).

It is TVA's practice to advise potential suppliers of the availability of such services.

Suggestion: A formal determination should be made by the contracting officer, prior to award, that all the basic prerequisites of formal advertising are present whenever three or less bids have been received. When the determination is negative, the contracting officer should consider using post-bid negotiation, if he determines the price to be unreasonable, and take positive steps to correct the causes of the low bid response for the benefit of future procurements (page 20).

APPENDIX IV

While we agree in principle with this suggestion, TVA's basic procurement statute (16 U.S.C. § 831h(b)) is somewhat more restrictive with respect to negotiation than the statutes governing other federal agencies.

In every case where adequate competition has not been received as evidenced by a single bid or where the level of prices quoted is out of line with reasonable estimates, we examine the circumstances and consider ways of obtaining additional competition. In cases exhibiting minimal competition or excessive bid prices we normally readvertise the requirement if additional suppliers appear to be available and time so permits, possibly modifying the specification. We believe this procedure is satisfactory; however, we will consider expanding it to include those cases where two or three bids are received.

Suggestion: Procuring activities should monitor bid solicitations which elicit limited responses, to identify and improve existing specifications which restrict competition. Where a low bid response rate has been experienced after using a brand name or equal purchase description, develop specifications if feasible. If the development of broader specifications is determined to be unfeasible or impractical, the contracting officer should consider negotiation as discussed on page 20 (page 22).

We fully agree with this suggestion with which TVA practice is in accord.

Suggestion: Develop a simplified and uniform IFB that references standard contract provisions in place of repeating every provision in every solicitation (page 23).

TVA's procurement is different from that of other government agencies in that, in general, our procurement methods and practices are not subject to the Federal Procurement Regulations, and, with certain exceptions, we have not published any regulations of a similar type. Our invitations to bid contain all the terms and conditions applicable to a particular procurement and upon acceptance of the bid, it becomes the contract. Since TVA does not publish its contract clauses, the only manner in which we could incorporate them by reference would be to provide a document containing such clauses to all potential bidders. We do not feel that this would provide the definitiveness of contract provisions we deem necessary. Moreover, the only contract provisions repeated without change in all invitations are our "General Conditions." These are printed on two sides of a single sheet and are ordered in large quantities so that the cost is minimal. However, in the procurement of coal under spot contracts (four weeks or less delivery term), we furnish a set of

standard terms and conditions to all prospective bidders and update these forms from time to time as needed. As long as a current producer's statement is on file, his bid may be submitted on a one-page form.

We have also developed TVA Standard Specifications for a number of commodities which we buy repetitively. The companies on the bid lists for these commodities are furnished copies of these specifications which they retain on file. The specification is incorporated by reference in the Invitation To Bid.

Suggestion: All clauses containing fill-in blanks should be placed in the foresection of the IFB (page 23).

TVA's practice is to place all forms requiring the bidder to enter information as near the front of the Invitation To Bid as good organization of the document will allow.

Suggestion: Develop a Government-wide contract clause book or master solicitation document containing all standard contract provisions to be furnished to potential bidders on a one-time basis and periodically updated (page 23).

We feel that this suggestion is not practical because of the large number of different conditions utilized by the various agencies and the very large number of vendors that would be involved. The updating and distribution of clause revisions would be a monumental and continuing task, and we think it would lead to frequent controversy as to the actual content of the contract.

Suggestion: Re-evaluate the current practices to determine if the bid response periods should be increased (page 24).

TVA carefully considers each invitation with regard to its complexity and the number of potential suppliers, and determines what is an adequate bid preparation time. When the need for additional time is indicated by requests from bidders, we extend the bid opening date if necessary to obtain adequate or wider competition.

Suggestion: Emphasize to suppliers that use of certified mail will ensure that their bids will be considered if mailed in advance of bid opening (page 24).

It is TVA's policy that for a bid to be considered, it must be physically received in time for the bid opening. We feel that giving consideration

APPENDIX IV

to bids received after the bid opening, even if mailed by certified mail, would only increase the problems in administration of the procurement process. This long-standing TVA practice is known to our suppliers and, consequently, we have very few occurrences of bids being received after the time specified for bid opening.

Suggestion: Emphasize to contracting officers that bid discrepancies need to be anticipated by including in the solicitation document special provisions which will help reduce the number of technically nonresponsive bids and increase competition (page 26).

TVA agrees with this suggestion and will continue its practice of the principle.

Suggestion: Periodically evaluate and revise the number of IFBs prepared based on current usage (page 29).

TVA's purchasing agents continually evaluate invitations to bid for this purpose and make appropriate adjustments in the number ordered.

Suggestion: Develop uniform criteria requiring all procurement agencies to send no more than two copies of the IFB to each firm solicited (page 30).

TVA provides the prospective bidders with three copies of the Invitation To Bid. Bidders are required to submit their bids in duplicate, the third copy being his to retain. The original of the successful bid becomes the contract when accepted by the contracting officer and is retained by TVA. The second copy submitted by the successful bidder is also signed by TVA and returned to the bidder as his official copy of the contract.

• While we recognize that savings may accrue from a reduction in the number of copies of the Invitation To Bid required and in postage costs for their distribution, we feel that under our practices the requirement for duplicate bids is essential for the following reasons:

1. On the day that bids are opened, a copy of each of the bids is available for public inspection. We feel that the original of the bid should not be subject to possible misplacement or mutilation by those inspecting the bids.

2. One copy of all bids is sent to the requisitioning division for review and recommendation as to contract award. We feel that the purchasing agent should retain the original of the bid during this period.

Suggestion: Establish a program within each procurement agency to selectively review the extent of competition achieved under formal advertising and take aggressive action to stimulate competition where it appears to be restrictive (page 33).

Although not organized as a formal program, this type of action is now taken by TVA when lack of competition is indicated.

Suggestion: Establish a work simplification program within each procurement agency devoted to (1) developing new bidders lists from procurement histories, (2) simplifying and shortening of the IFB, and (3) re-evaluating the requirements for the distribution of IFBs (page 33).

TVA's actions which relate to these suggestions have been discussed in the comments concerning other suggestions.

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PRINCIPAL OFFICIALS OF
THE DEPARTMENT OF DEFENSE,
THE GENERAL SERVICES ADMINISTRATION,
AND THE TENNESSEE VALLEY AUTHORITY
RESPONSIBLE FOR THE ADMINISTRATION
OF ACTIVITIES DISCUSSED IN THIS REPORT

Tenure of office		
	From	To

DEPARTMENT OF DEFENSE

SECRETARY OF DEFENSE:

William P. Clements, Jr. (acting)	May 1973	Present
Elliot L. Richardson	Jan. 1973	Apr. 1973
Melvin R. Laird	Jan. 1969	Dec. 1972

ASSISTANT SECRETARY OF DEFENSE
(INSTALLATIONS AND LOGISTICS):

Hugh McCullough (acting)	Feb. 1973	Present
Barry J. Shillito	Jan. 1969	Jan. 1973

GENERAL SERVICES ADMINISTRATION

ADMINISTRATOR:

Arthur F. Sampson (acting)	June 1972	Present
Rod Creger	Jan. 1972	June 1972
Robert L. Kunzig	Mar. 1969	Jan. 1972

COMMISSIONER, FEDERAL SUPPLY SERVICE:

Milton F. Meeker	Jan. 1972	Present
Lewis E. Spangler (acting)	Apr. 1971	Jan. 1972
H. A. Abersfeller	Mar. 1970	Apr. 1971

TENNESSEE VALLEY AUTHORITY

CHAIRMAN OF THE BOARD:

Audrey J. Wagner	May 1969	Present
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