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BEFORE THE
READINESS AND MANAGEMENT SUPPORT SUBCOMMITTEE
COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE
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Chairman Ensign, Senator Akaka, and Members of the Subcommittee, I am pleased to have this opportunity to update you on efforts the Office of Federal Procurement Policy (OFPP) is taking to address the challenges facing our procurement community. My comments, reflective of OFPP's activities, are government-wide in scope, but are shaped in many important ways by the critical mission needs of the Department of Defense (DoD).

Broadly speaking, the majority of OFPP's current activities are intended to: (1) make the federal marketplace more competitive in order to lower costs for taxpayers and improve program performance to citizens, and (2) preserve acquisition flexibilities through more accountable and strategic management. As you know from prior statements, my primary mission since assuming the responsibilities of Administrator of OFPP in May 2001 has been to renew our acquisition workforce's focus on the fundamental building blocks of procurement: sound planning, consistent use of

competition -- applied in a fair, transparent, and ethical manner -- well structured contracts, and solid contract administration. While these principles are hardly strangers to our workforce, we often find ourselves struggling to apply them consistently in a world of rapidly changing needs and ever-evolving technologies. My hope is that clearer emphasis on acquisition basics will better position us as a community to ensure that taxpayer resources are managed well and used more effectively.

There are several important initiatives OFPP is pursuing, in close coordination with other offices within OMB, to pave the way to a performance-based environment -- in terms of both fostering effective use of competition and instilling greater accountability for our actions. These initiatives include:

- creating a viable infrastructure for public-private competition;
- strengthening the use of competition in our everyday acquisitions for services;
- expanding the small business supplier base;
- reducing transaction costs and increasing transparency through technological advances; and
- improving purchase card practices.

Let me now briefly discuss each of these efforts with you.

Creating a viable infrastructure for public-private competition

As you know well, competitive sourcing -- i.e., using competition for selecting sources to perform government activities that are commercial in nature -- is a key component of the President's Management Agenda and the Administration's vision for a market-based government. After nearly two years of hard work with the agencies, I am

pleased to see a large number of our federal managers accepting the difficult challenge of building an infrastructure to identify commercial activities, planning for their performance, and, for the first time, institutionalizing public-private competition to address those needs.

While creation of an infrastructure is just one step, it is a critical step. Many of the processes relied upon until now are rooted in long-outdated management ideals that have permitted vast numbers of our commercial activities to remain insulated from competition. As our mindset transforms from one that resists competition to one that embraces the value competition generates, agencies should find themselves well-positioned to achieve a mix of government and contract support that is optimal for mission success.

Progress is proceeding according to plans at many of the agencies we are tracking in the Budget (i.e., the "scorecard agencies"). We are starting to see real management advances in a few instances. DoD has the largest and most experienced infrastructure in the federal government for conducting competitive sourcing, which is governed by OMB Circular A-76. The Center for Naval Analysis and other evaluators have reviewed the results of DoD's competitions and found that: (1) the net long-term savings are significant and permanent; and (2) few federal employees are worse off after competition, and many are hired by contractors who win competitions.

DoD is increasing the "tooth-to-tail" ratio through competition of military members and civilians in commercial activities to less support-oriented activities, particularly war-fighting. DoD is committed to reviewing half of the 452,000 positions

in commercially available activities. DoD estimates that announcement of new A-76 competitions will be around 10,000 positions in FY 2003 and at least 10,000 in FY 2004. A major DoD review of A-76 and other competitions by each Military Service and Defense Agency is scheduled this year so that the President's FY 2005 Budget can present how DoD will achieve this Presidential Management Initiative.

Action is occurring at other agencies as well. For example, the Department of Veterans Affairs is opening up the activities of 52,000 employees (primarily ancillary support functions) to competition over the next five years -- initiating studies of 25,000 of them in 2003 alone. At the Federal Aviation Administration, 2,700 federal flight services personnel are participating in a public-private competition. These federal personnel currently provide weather reports to private pilots, a function that is currently outsourced by every major airline. Similarly, the Department of Energy has started public-private competition for a variety of functions (such as computer personnel, graphic designers, and financial services personnel) and locations nationwide.

Despite progress, overall use of competitive sourcing remains weak. This is not surprising when considering that the current processes governing sourcing decisions are time consuming and unnecessarily complicated. Therefore, OMB is committed to significantly improving how agencies determine whether commercial activities will be performed by public or private sources.

Last November, OMB proposed major revisions to OMB Circular A-76. The proposed changes would provide for processes that are more manageable, more competitive, more even-handed, and more results-driven. These objectives would be accomplished by:

- helping agencies more easily distinguish between commercial and inherently governmental activities by offering a more concise definition of "inherently governmental" and rescinding the more complex description currently relied on;
- making processes simpler and easier to understand, including appropriate use of certain well-tested practices in the Federal Acquisition Regulation (FAR);
- more fully accommodating a program's need for best value and innovation, while still requiring cost to remain a factor in all competitions and the deciding factor in many competitions;
- incorporating appropriate mechanisms of transparency, fairness, and integrity (e.g., by separating the team that is formed to write the solicitation from the one established to develop the agency tender) so that competitions occur on a level playing field that results in performance by the best source;
- ensuring that sourcing decisions are made in real time by imposing deadlines that would reduce the cycle time from the current delay-plagued three years (on average) to one year; and
- improving post competition oversight so that selected sources, whether from the public or private sectors, make good on their promises to the taxpayer.

With regard to the first element, in particular, which involves distinguishing the universe of activities that may be eligible for competition from those that would not, I would emphasize that competitive sourcing is not, and has never been, about outsourcing inherently governmental activities. We are focused *strictly* on commercial functions, whether they be specialized functions or more routine functions such as hanging dry wall or mowing the lawn. I am puzzled to hear statements that the Administration is planning to contract functions intimately related to the public interest, such as determinations on the content and application of regulations. These types of functions must be performed by public employees and we will continue to depend on our able workforce to execute these important responsibilities on behalf of our citizenry. This notwithstanding, we will still require agencies to identify their inherently governmental functions to ensure

activities are properly characterized. By doing so, commercial functions that should be considered for competition will not remain insulated from the savings that a fair competition can yield. At the same time, we will not force agencies to pursue competitive sourcing for competition's sake. We appreciate that each agency has a unique mission and workforce mix and will continue to work with agencies in tailoring competition plans accordingly.

We have been working aggressively to consider the more than 700 comments that were submitted on the proposed rule. These comments are posted on the Internet at <http://www.omb.gov> and a discussion of their general disposition will be provided in the preamble to the final circular.

In analyzing the public comments, we have been keeping an especially watchful eye out for areas where processes may cause results that fall short of expectations -- e.g., instances where the process unnecessarily constrains management's ability to fully consider and compare options. In this regard, a number of commenters pointed out that administrative convenience may drive agencies to pursue direct conversions even where in-house providers may be the better alternative. We are examining the viability and fairness of a process that would allow for a highly simplified and streamlined consideration of public and private sector sources.

We are aiming to complete our review of public comments shortly so that agencies may soon take advantage of our transformed processes. While final decisions have not yet been made, you should anticipate that the major elements I described a moment ago will be incorporated, in appropriate fashion, in the final revisions to the circular.

Of course, our commitment doesn't end with publication of the circular. This is just a beginning. We will continue to work with agencies in crafting appropriate competition plans. Equally important, we will track results through our scorecard so that successes are promoted and shortfalls corrected.

Strengthening and improving the use of competition in our everyday acquisitions for services

As agencies look to the marketplace for "managed solutions," we must continually strive to make sure that the vehicles and strategies we use for these purposes are shaped to achieve good results. For this reason, we have been paying increasing attention to the popular Multiple Award Schedules (MAS) program and looking for ways to encourage greater use of performance-based services acquisitions.

MAS Purchases. OFPP recognizes that agencies have been inconsistent in adhering to certain basic acquisition requirements in their MAS purchases, such as in their use of statements of work, pricing of orders, application of competition, and documentation of award decisions. The issuance last fall of a final rule in the DoD FAR Supplement (DFARS) implementing section 803 of the FY 2002 Defense Authorization Act will significantly assist in strengthening the Department's use of competition in its schedule purchases for services over \$100,000. But additional steps must be taken. I, and the other members of the FAR Council, seek to significantly improve the application of acquisition basics on MAS purchases for services and reinforce sound MAS practices generally at all agencies.

Within the next several weeks, I anticipate issuance of a proposed FAR that will:

- add new coverage on use of statements of work when acquiring services from the MAS;
- reinforce documentation requirements generally and address the documentation of sole-source orders and price-reasonableness determinations in particular; and
- clarify and strengthen the procedures for establishing blanket purchase agreements against the MAS.

In developing these changes, we gave careful consideration to the findings and recommendations made by the General Accounting Office as part of its study of DoD's large MAS buys for services.

Performance-based services acquisitions (PBSA). OFPP is taking steps to reinvigorate the use of PBSA and capitalize on the competitiveness and innovativeness that is generated when contractors are given the freedom to figure out the best solution to meet the government's needs. Specifically, an OFPP-sponsored inter-agency working group has developed a set of recommendations for making PBSA policies and procedures more flexible and easier to apply. The working group's recommendations will form the basis for proposed amendments to the FAR's coverage on service contracting. The recommendations also will be used to develop new practical guidance, such as sample performance-based statements of work that OFPP plans to post on the Internet for easy access and application to appropriate agency services acquisitions. This new guidance may replace OFPP's current best practices guide, which was last updated in 1998.

OFPP intends to review data collected by the Federal Procurement Data System (FPDS) to measure PBSA usage. FPDS began collecting data in FY 2001 on whether service contracts are performance-based. This measure will not, by itself, indicate the

effectiveness of PBSA. However, the measure will serve as a useful gauge of whether agencies are making PBSA a priority.

Expanding the small business supplier base

The Administration seeks to create a dynamic atmosphere where competitive and innovative small businesses can flourish and apply their talents to the many pressing needs facing our government. Over the past 10 years, we have seen a significant increase in contract bundling -- i.e., where agency procurement requirements are consolidated into contracts that are unlikely to be suitable for performance by a small business because of the size or performance requirements of the contract. As we have broadened the scope of contract requirements and awarded fewer contract vehicles over the past decade, the pool of small business contractors receiving new contract awards declined from 26,000 in 1991 to about 11,600 in 2000.

We cannot afford to revert back to the paperwork and labor-intensive acquisition system of the past; nor can we pursue operational efficiencies at the expense of reducing small business opportunities. We must find an appropriate balance between operational efficiency, opportunity, and fairness. We must also recognize that bundling decisions should not be an "either or" decision, i.e., a decision to either bundle or not bundle acquisitions. Like any acquisition strategy, analysis of bundling should account for how it would help or hinder the operation of programs within and across agencies. For example, the Administration's e-Government initiatives often require integration that may be facilitated by bundling if the agency demonstrates substantial benefits. However,

even in instances where bundling is found to be necessary and justified, agencies should seek alternative acquisition strategies that have less negative impact on small businesses.

Today, there are certain conditions under which an agency may be able to bundle contracts without analyzing the benefits or considering alternatives that may produce similar positive results with fewer negative effects on small businesses. Without this analysis, we put ourselves at risk of a shrinking contractor base and fewer products and services from which to choose.

Last October, OFPP submitted a nine-point strategy to the President for eliminating unnecessary contract bundling and mitigating the effects of bundling that agencies find to be necessary and justified. The strategy is designed to: (1) promote leadership and accountability; (2) close regulatory loopholes; and (3) mitigate the effects of necessary and justified contract bundling. With successful implementation of this strategy, we believe that we will have reduced a significant barrier to entry and, in doing so, allowed small businesses to bring their innovation, creativity, and lower costs to the federal marketplace.

With this result in mind, OFPP established and heads an interagency task force to bring the bundling strategy to fruition. The task force's primary task has been to develop regulations that implement the new bundling strategy in the FAR and SBA's regulations. Proposed regulations, which were published in the *Federal Register* at the end of January, would:

- provide more effective agency small business contracting review procedures;
- require agencies to identify alternative strategies that reduce bundling and justify decisions not to use those alternatives; and

- make clear that multiple award contracts and orders under those contracts are not exempt from regulatory requirements and procedures designed to eliminate unnecessary contract bundling and mitigate the effects of bundling.

Comments on the proposed rules are due by April 1, 2003.

We have also asked agencies to report quarterly to OMB on the status of their efforts to address contract bundling issues. OFPP will be monitoring agency actions and will develop additional guidance as necessary.

Reducing transaction costs and increasing transparency through technological advances

The President's Management Agenda calls on federal agencies to champion a citizen-centered electronic government that consistently delivers high quality service at lower cost. The appeal of "e-Government" for procurement is easy to see. The efficiency, transparency, and administrative simplification that technology enables can stimulate the type of robust participation that makes for a successful virtual marketplace. Consider "e-Buy" -- i.e., a new electronic quote system for MAS purchases. As a convenient and easy medium for transmitting notices, e-Buy can be a catalyst to further increase MAS competition without hampering the efficiencies that draw buyers to the MAS program.

The introduction of e-Buy is particularly timely in light of the recent and pending regulatory changes that seek to strengthen MAS purchasing. I commend both the Federal Supply Service (which operates the MAS) for making this infrastructure available to MAS customers and DoD for highlighting the availability of e-Buy in the DFARS as part of its coverage on schedule purchases.

The "inter-agency contract directory" (ICD) offers another good example of how we are using the powers of the Internet to improve our buying practices. While agencies have become increasingly interested in inter-agency contracting, there are few, if any, places, they can turn to see the range of contracts across government that may be suitable for their use. The ICD is designed to overcome this shortcoming and facilitate more informed decision making. Later this year, the ICD will provide general information about contracts available for inter-agency use, including information about: the scope of the contract, socio-economic considerations, ordering procedures, and fees. Agencies will be able to use this information as one data point in deciding whether they are better served by placing an order under an existing contract or pursuing a new open market contract action. The ICD will also help senior managers to get a better picture of the number of inter-agency contracts that their agencies are operating.

GSA, which manages this project in consultation with my office, has been working for a number of months to address configuration issues. In addition, the FAR regulatory councils have evaluated public comments on proposed FAR changes that will provide the regulatory underpinning for the ICD. Population of the directory is expected to begin after validation testing is completed this spring. FAR changes will be finalized at that time to encourage consideration of the ICD during acquisition planning and market research as well as to ensure agencies regularly input information on new inter-agency vehicles in a timely fashion.

Of course, "e-Buy" and the ICD are just two components of our efforts to reshape information technology (IT) investments in ways that mirror the integrated nature of acquisition. Our "integrated acquisition environment" (IAE) initiative seeks to facilitate

the migration and leveraging of IT investments to modernized, technology-based infrastructures that harmonize the varying functions that support the acquisition process. GSA serves as managing partner of the IAE initiative, working closely with OMB's Office of Information Technology and Electronic Government, and OFPP.

IAE projects have been placed into one of three broad functional areas that collectively encompass the acquisition process, namely, functions that: (1) promote access to business opportunities, (2) manage information about the government's business partners, or (3) capture information on acquisition activities. For instance, "e-Buy" and the ICD are part of a larger "business opportunities network" that also includes:

- "FedBizOpps," our government-wide point of entry for information on actions over \$25,000, and
- "SUBNet," a one-stop resource for information on subcontracting opportunities.

The functional groupings are helping managers across agencies to more easily identify and avoid redundant IT investments. This saves money for the government and can reduce burdens on contractors as well. An integrated "business partners network," for example, means that contractors may register once and avoid the effort of submitting redundant data each time they seek to do business with the government. Accurate and up-to-date registration information also facilitates timely payment to contractors.

In short, the IAE is laying the foundation for lasting change. As we work our way closer to a technology-based infrastructure, we greatly increase the odds of achieving major improvements in how agencies carry out their missions.

Improving purchase card practices

It is no secret that purchase cards have evolved quickly into a major institution in our procurement system, with expenditures increasing more than eight-fold since the mid-1990s. The reason for the purchase card's popularity is not difficult to understand: purchase cards eliminate many of the impediments of traditional procurement. Unfortunately, the efficiency of the card program has increasingly become overshadowed by waste, abuse, and even fraud, with little or no corrective action taken by the agency. While some members of our procurement community appear concerned that corrective action will unnecessarily erode flexibility, I believe that failure to act is much more likely to put this flexibility at risk.

To help preserve public confidence in our workforce's ability to be effective stewards with purchase cards, we have taken several important actions. In January, OMB began requiring agencies to report quarterly on certain aspects of their purchase card programs to ensure that agencies are implementing strong internal controls. Agencies will provide information regarding the number of cards, span of control, spending limits, rebates, delinquency rates, fraud and misuse investigations, disciplinary actions taken, and other agency information related to the management of these programs.

In addition, the President's Budget for FY 2004 proposes a statutory amendment that would require departments and agencies to evaluate the creditworthiness of individual employees before issuing a government purchase charge card (or Government travel charge card). Agencies would not be allowed to issue charge cards to those without a credit history or with an unsatisfactory credit history. Agencies would be required to develop guidelines and procedures for disciplinary actions to be taken against

agency personnel for improper or fraudulent use, or abuse of charge cards. Better management over card activities, as reinforced by this provision, will help agencies capture cost-saving efficiencies in acquisition and finance operations without wasting hard-earned taxpayer dollars.

I would emphasize that our efforts are focused not just on protecting against waste. We are also seeking to capitalize on the value that cards offer in furthering strategic decision making. Cards give agencies the ability to gain much better insight into buying behaviors of their employees. Agencies must actively use this information to identify opportunities for smarter purchasing and we plan to work with agencies to find appropriate ways to make this happen.

Implementing a balanced reform of Federal Prison Industries

Before concluding, I would like to draw your attention to promising developments regarding the reform of Federal Prison Industries (FPI). The Administration strongly supports a balanced reform of FPI that would level the playing field between the private sector and FPI, increase opportunities for small businesses, give agencies greater flexibility to obtain best value when spending taxpayer money, and ensure continued work opportunities for federal inmates. As the Armed Services Committee has recognized, the products that agencies have been required to buy from FPI may be ones that many of our nation's private sector contractors are able and willing to provide at better prices and at a level of quality that FPI, as a federal correctional program, is not always in a position to match.

Over the last several months, FPI's Board of Directors has taken several administrative steps that will benefit all agencies. I suggested many of these actions to the Board and strongly commend them for recognizing the need for reform and taking timely action. Let me briefly describe these actions for you.

In January, the FPI Board of Directors raised the waiver threshold for application of the mandatory source requirement from \$250 to \$2,500. This change, which will apply to all federal agencies and become effective when implemented in the FAR, will give buyers across the government the opportunity to carefully consider the wide array of products offered in the marketplace, as well as by FPI, and make buying decisions free from the management restraints associated with mandatory sourcing.

Agencies will further benefit from additional business reforms the Board announced earlier this month. The Board resolved that:

- FPI will immediately begin granting waivers in all cases where the private sector provides a lower price for a comparable product that FPI does not meet.
- The FPI Chief Operating Officer will prepare and present to the Board by March 31 a plan to end the application of mandatory source for products for which FPI's share of the Federal market exceeds 20%.
- Inmates will be denied access to personal information of any kind, including credit card numbers, medical records, social security numbers, credit records, and other personal information.

In addition, the Board agreed to consider ending the practice of selling products for which prison labor does not have a substantial portion of the value (at least 20%) of the product. OFPP's intent in offering this proposal to the Board is to help ensure that all of FPI's activities further the goal of providing work opportunities for federal inmates.

We think such an action would be consistent with the Board's announcement made at the

end of last year to eliminate the practice of "pass through" sales, in which FPI purchases products directly from commercial manufacturers and resells them to a federal agency to meet delivery deadlines. The Board has tabled action until it can obtain more information. We look forward to a continued collaborative effort with the Board as it pursues reform efforts.

Conclusion

As this year's Budget again illustrates, the Administration remains firm in its resolve to improve the performance of government and the culture that drives our investment decisions. For the acquisition community, this means that we must continue our efforts to promote access to the federal marketplace, and ensure competition is used effectively at every level of purchasing throughout the government. This will enhance opportunities for all businesses -- small and large -- spur creativity in the marketplace, and provide the framework for the delivery of better value for agencies and the taxpayer.

There is more to be done. But I am confident that the steps we are taking are laying the foundation for an acquisition process that is considerably more market-driven and results-oriented than that which this Administration inherited.

This concludes my prepared remarks. I am happy to answer any questions you might have.