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WASHINGTON, D.C. 20503**
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STATEMENT OF
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ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
SUBCOMMITTEE ON CONTRACTING OVERSIGHT
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

JUNE 30, 2010

Chairman McCaskill, Ranking Member Brown, and Members of the Subcommittee, I welcome the opportunity to appear before you today to discuss management and oversight issues associated with the use of interagency and agency-wide contracting vehicles. As you know, the President directed agencies to become more fiscally responsible in their contract actions and to take immediate steps to achieve real and sustainable improvements. As part of our response to the President's mandate, the Office of Federal Procurement Policy (OFPP) is increasing attention on agencies' interagency contracting, which occurs through government-wide acquisition contracts (GWACs), the Multiple Award Schedules (MAS) Program, and other "multi-agency" contracts used by more than one agency pursuant to the Economy Act. We are also increasing our attention on agency-wide contracting to the extent that it duplicates any of these tools. All of these tools, when used and managed properly, allow agencies to leverage their buying power and achieve administrative efficiencies that reduce costs and produce savings for our taxpayers.

We have carefully studied the report recently released by the Government Accountability Office (GAO) on interagency and agency-wide contracting and have also revisited the findings

and recommendations made by the Acquisition Advisory Panel when it looked at this issue several years ago. Over the last several months, we have also been conducting a significant amount of outreach to gain additional insight into the perspectives held by different stakeholders in the acquisition community. In addition to meeting with staff from this and other Congressional committees, we have met with the General Services Administration (GSA) and other agencies who manage GWACs, agencies who use them, and agencies that have opted to establish their own contracts in lieu of using existing interagency vehicles. We also conducted roundtables with our Chief Acquisition Officers (CAOs) and Senior Procurement Executives (SPEs) and interviewed a number of contract holders and trade associations. While our outreach efforts continue – as we want to make sure that we hear from all interested parties – I would like to share with the Subcommittee what OFPP has concluded based on our review thus far as well as some of the actions we are taking to make improvements in this important area.

Areas of progress

1. *The discipline and transparency applied to GWACs have helped to enhance the value of contract products and services available to agencies.* Under the Clinger-Cohen Act, OMB is responsible for approving executive agents to manage the creation and operation of GWACs. For many years, OMB has required that agencies seeking to establish GWACs prepare business cases describing the expected need for the vehicle (e.g., the anticipated level of agency usage), the value that its creation would add, and the agency's suitability to serve as its executive agent. The Acquisition Advisory Panel concluded that OMB's business case process is sound. It recommended that OMB consider applying this model to the establishment of multi-agency contracts.

OMB uses these business cases in deciding whether to approve the agency's request. For example, in 2008, this process helped OMB to conclude that there was a solid basis for granting a request by the National Aeronautics and Space Administration (NASA) to serve as an executive agent for the renewal of the Solutions for Enterprise-wide Procurement ("SEWP") GWAC. NASA's business case showed that agencies have routinely looked to SEWP for cost-effective access to high-end scientific IT products at reasonable fees. NASA also demonstrated that it is particularly well suited to serve as an executive agent because it could leverage the in-house expertise of its scientists and engineers to assist in evaluation of contractors and new products. It also had created a support structure and management controls to promote good contracting practices.

While in the past as many as six agencies managed at least 16 GWACs, currently there are only 3 executive agents who manage a total of 10 GWACs:

- All are for information technology, as required by the Clinger-Cohen Act.
- Two focus on hardware and software, of which one focuses on high-end scientific IT.
- Three provide IT service solutions, of which one offers medical imaging equipment.
- Four of the current GWACs are set aside for small business contractors – including one for 8(a) contractors and one for service-disabled veteran-owned small businesses. Small business set-aside GWACs have proven to be a helpful vehicle for facilitating agency access to the talents and skills of small businesses in an efficient and effective manner.

2. We are improving how we leverage buying power at the government-wide level.

Agency spending for many commonly-used items is typically fragmented across multiple departments, programs, and functions, which means that agencies often rely on hundreds of separate contracts, with pricing that varies widely. The result is that agencies often do not get the best price they could, leading to an unacceptable waste of taxpayer dollars.

We are working with agencies to change these inefficient practices. Effective strategic sourcing begins with good acquisition planning. The first step is convening a team of agency experts on the commodity at issue to understand agencies' needs, share pricing information, analyze spend data, and identify common requirements. This information allows us to maximize the benefits of competition by securing up-front spending commitments from agencies to increase vendor interest in the procurement (a point whose importance industry has underscored repeatedly). The competition should be structured in a way to maximize small business participation, and we should use innovative practices, such as reverse auctions, to drive down prices. Wherever appropriate, we should structure pricing to include ongoing price reductions during the life of the contract, as the quantity of the government's purchases passes cumulative thresholds. Finally, we need to require that vendors provide agency customers with detailed spend data so they can continually analyze their internal business processes, identify more efficient practices, achieve additional savings, and share best demonstrated practices with the commodity team in crafting future agreements.

Over the past several months, GSA used many of these elements when it was selected by a team of agencies to conduct a competition for a new round of government-wide blanket purchase agreements (BPA) for office supplies, and the results are impressive. The new BPAs, which include sustainable technologies and other green products, are expected to help federal agencies cut procurement costs for office supplies by as much as 20 percent, or close to \$200 million, over the next four years. The BPAs provide for additional price reductions of up to 19 percent as government-wide purchasing increases the spending above pre-set volume discount thresholds. Federal agencies will automatically receive the discounted pricing just by using their

SmartPay card at any one of the twelve winning vendors, which includes two service-disabled veteran-owned small businesses and eleven small businesses overall.

Of course, the office supplies BPAs provide only a small glimpse into the vast benefits that strategic sourcing offers and we need to share these experiences so that we can replicate success. Over the coming months, GSA will launch a knowledge management portal where studies, market research, and spend analyses developed in connection with strategic sourcing initiatives will be posted to promote knowledge sharing of best demonstrated practices and further mature strategic sourcing as a tool for fiscally responsible buying.

3. Agencies are strengthening internal management controls associated with interagency contracting. In reports submitted to OMB earlier this month, SPEs advised that their buying organizations are implementing practices to improve how they evaluate if an interagency acquisition will be beneficial. These practices, which are outlined in OFPP's 2008 guidance on interagency acquisitions, include making "best interest" determinations before using another agency's contract, taking into account factors such as the suitability of the vehicle, the value of using the vehicle (including the reasonableness of the fees), and the requesting agency's ability to use the vehicle effectively. If the requesting agency is seeking acquisition assistance, such as help in awarding a contract on its behalf, the requesting agency is considering, as it should, the servicing agency's authority, experience, expertise, and customer satisfaction with its past performance. When assisted acquisitions are pursued, agency customers and servicing agencies are entering into agreements that establish terms and conditions to govern the relationship between the agencies, including each party's role in carrying out responsibilities in the acquisition lifecycle.

Improvements that our agencies are making in assisted acquisitions are particularly noteworthy. Unclear lines of responsibility for assisted acquisitions was one of the root causes that led GAO to add interagency contracting to its High Risk List in 2005. It also led Congress to restrict use by the Department of Defense (DoD) of this authority until certain corrective actions were taken. Not only has the Department taken these steps, but, with its renewed authority, it entered into an assisted acquisition with the Department of Interior (DOI) that will save our taxpayers hundreds of millions of dollars in the operation of the Military OneSource Program. This program provides a wide variety of support services to military personnel and their families to ensure military members will continue to be mission deployable. Previously, it had been supported by a sole-source contract. Working closely with Defense officials, DOI conducted a full and open competition that encouraged offerors to submit proposals to reengineer the delivery of counseling services and to price call center operation services based on actual monthly call volume, rather than a fixed monthly rate. As a result of DOI's efforts, DoD expects to save \$300 million over the five-year life of the contract, while delivering higher quality services to military personnel and their families.

While the guidance that OFPP issued in 2008 to help agencies with interagency contracting has been well received, we are now working with the other members of the Federal Acquisition Regulatory Council (FAR Council) to develop a regulatory case that will incorporate appropriate details from OFPP's guidance into the FAR. These changes, coupled with others that have already been made and more that are coming to strengthen the use of competition in task and delivery order contracts, should reinforce sound contracting practices and effective oversight in this area. We expect the new FAR changes to be published this summer.

Areas requiring greater attention

While we are making progress on several fronts, we are not making sufficient progress on others. We continue to hear concerns, such as that raised in your letter of invitation, that agencies may be undercutting the benefits of interagency contracting by duplicating each other's contracting efforts. We recognize, as did the Acquisition Advisory Panel, that, "[s]ome competition among vehicles is . . . desirable and even fundamental to maintaining the health of government contracting." That said, unjustified duplication must be avoided, as it increases both the workload for our acquisition workforce and procurement costs for vendors, which are then passed on to our taxpayers in the form of higher prices, actions we can ill afford. In its recent report, GAO concluded that the waste associated with proliferation may be minimized by expanding use of business cases and improving the quality of data on interagency contracts. We concur with GAO's conclusions. Here is how we are approaching each of these issues.

1. *Expanding the use of business cases.* Later this summer, OFPP will issue guidance for agencies to develop business cases for multi-agency contracts. We are building on the basic analytical model that we have successfully used for GWACs. Consistent with section 865 of the National Defense Authorization Act for FY 2009, the business case will require an agency to address the anticipated impact that its proposed vehicle will have on the government's ability to leverage – such as how it differs from existing vehicles and the basis for concluding that it will offer greater value than existing vehicles. The business case will also require the agency to evaluate the cost of awarding and managing the contract and comparing this to the likely fees that would be incurred if the agency used an existing vehicle or sought out acquisition assistance. This process will help to improve internal management and oversight of multi-agency contracts.

As part of this process, we are considering if and where review outside the agency might be warranted. Some stakeholders have stated that business cases should be approved by an independent reviewer outside the agency. Other stakeholders believe internal approval is enough, as long as the approval authority is at a sufficiently high level within the agency to ensure proposed actions have been properly vetted. In the current environment, the case for considering external review may be strongest for contracts involving IT. When OFPP surveyed agencies in 2006 to gain a snapshot of interagency activity, we found most of the overlap among multi-agency and agency-wide contracts was in the IT area (we are now in the process of updating the results of that survey). Equal, if not more, importantly, because GWACs already provide agencies with access to a wide range of contracted goods and services for IT, external review of business cases to establish multi-agency contracts for IT may serve a useful purpose in guarding against unjustified duplication of GWACs.

In addition, we are considering whether an exemption from the requirement for a business case should be provided if other agencies use of the contract at issue is expected to be minimal. The term "multi-agency contract," as it is currently defined, includes not only contracts where inter-agency activity is significant, but all contracts where use by other agencies is permitted, even if it is minor and incidental. In the latter case, the potential for duplication should be reduced, thus reducing the need for a business case.

Finally, we will promote the use of a business case process for agency-wide contracts. Because agency-wide contracts involve large investments likely to have an impact on government-wide buying power, we believe it is prudent for an agency to develop a business case before moving forward with that approach. GAO's report points out that a number of agencies already require business cases to consider the value of establishing an agency-wide

vehicle in light of the costs of doing so and the suitability of alternative existing vehicles that may be available. Equally important, the GAO report also describes a number of reasons why an agency may opt to establish an agency-wide contract in lieu of using an existing interagency contract. For example, the agency may wish to negotiate terms and conditions that are tailored to its needs, simplify contract management by bringing contractors together under one contract vehicle (in lieu of having to manage contractors on multiple interagency vehicles, each of which addresses only part of the agency's requirement), and better ensure products are in compliance with agency standards. Therefore, as we develop guidance for business cases associated with agency-wide contracts, we must accommodate the legitimate reasons that might favor an agency-specific vehicle over an interagency vehicle.

2. *Improving the quality of data.* We must improve the adequacy of information that is available on interagency and agency-wide vehicles. Without adequate data, agency planners cannot effectively evaluate available options before awarding contracts and managers can't accurately assess if the use (or non-use) of these vehicles resulted in best value for the taxpayer. OFPP is conferring with the Chief Acquisition Officers Council's Acquisition Committee for E-Gov (the "ACE"). The ACE evaluates investments in the government-wide electronic acquisition systems that support common functions performed by all agencies. We are reviewing the status of programming changes to identify interagency contracts. We are also looking at options for recreating a clearinghouse of information on existing interagency contract vehicles, including GWACs, multi-agency contracts, MAS contracts, and any other procurement instrument intended for use by multiple agencies including BPAs under MAS contracts. My understanding is that a database of this nature was developed close to a decade ago, but was not maintained.

While data weaknesses are real and must be addressed, it is important to keep in mind that even a perfect data system will not cure unhealthy duplication, and we can make considerable improvements, even with incomplete data. Equally important, we must continually test assumptions that are made in the absence of complete data, so that our actions remain properly focused on where the challenges are greatest. With respect to multi-agency contracts, in particular, I, like many others, believed for a number of years that there were many of these vehicles that were essentially unofficial, and unregulated, GWACs. That is, that there were many agencies awarding large task and delivery order contracts primarily for the benefit of other agencies, but without demonstrating either a need for creating this capacity or even having the ability to manage such a contract effectively. This assumption was based, in part, on a statement in the Acquisition Advisory Panel's report that 40 percent of total federal procurement obligations was spent on interagency contract vehicles. Over the last several months, I have spent time trying to pin down how this capacity is actually being used and whether, in fact, it is supporting interagency contracting. Even in the absence of precise data, I found information that has caused me to reconsider my initial assumptions about the level of multi-agency contract activity. Specifically, these indicators suggest that multi-agency contracts are *not* operating as "disguised" GWACs and that interagency activity under these vehicles generally appears to be more incidental, along the lines traditionally envisioned under the Economy Act. For example, officials handling the Encore II multi-agency contract at the Defense Information Systems Agency, which was highlighted in the GAO's recent report as a large "multi-agency" contract, advised us that they have had minimal or no interagency activity. Similarly, when we looked at the more than 100 GAO bid protest decisions (which I view as a good window into the general state of what is occurring in our acquisition system) issued during 2010, only a small handful

involved an interagency transaction under a multi-agency contract. By contrast, there are a number of vehicles operating as agency-specific contracts that may affect government-wide buying power, which is why OFPP is focused on developing and pushing use of business cases to support these investments.

Conclusion

The efficiency of interagency and agency-wide contracts makes their popularity easy to understand, but concerns that we are not getting the best possible returns from these vehicles are also well founded. We have made some progress, but we must make much more. OFPP is redoubling its efforts and asking agencies to do the same to address remaining challenges and implement meaningful and lasting solutions that allow our agencies to take advantage of the savings and other benefits these vehicles can produce on behalf of our taxpayer. I look forward to working with this Subcommittee and other members of Congress on this important task. I am happy to address any questions you may have.