

January 1991

**DEFENSE
PROCUREMENT**

**Not Providing
Technical Data May
Limit Defense Logistics
Agency Competition**



**National Security and
International Affairs Division**

B-208159

January 30, 1991

The Honorable Richard B. Cheney
The Secretary of Defense

Dear Mr. Secretary:

This report presents the results of our review of (1) whether and to what extent the Defense General Supply Center (DGSC) in Richmond, Virginia, improperly classified solicitations as full and open competition, thereby limiting the statutorily required review of such proposed contract actions, and (2) the actions needed to ensure that future contract awards are based on full and open competition, whenever appropriate, at DGSC and other Defense Logistics Agency (DLA) supply centers. Full and open competition means, basically, allowing all sources capable of meeting the government's needs to compete.

Background

By improperly classifying a solicitation as full and open competition, an agency avoids the statutorily required written justification, certification, and approval of a proposed contract award based on other than full and open competition. As a result, less assurance exists than intended under the Competition in Contracting Act of 1984 (CICA) that opportunities for competition are not missed.

This report is a follow-on to our May 1990 report evaluating compliance with CICA at six major Department of Defense (DOD) procuring activities, including DGSC.¹ As part of that study, we examined solicitations that had been classified as consistent with full and open competition and had resulted in only one offer.

We found that the solicitations for all three of the randomly selected contract awards of this kind that we reviewed at DGSC were inconsistent with full and open competition. DGSC procurement officials said they had followed DLA guidance in awarding these three contracts. DLA administrators DGSC and five other supply centers. The findings in our prior report raised concerns about whether many of DGSC's and other DLA supply centers' solicitations classified as consistent with full and open competition—both those resulting in more than one offer and those resulting in

¹Procurement: Efforts Still Needed to Comply With the Competition in Contracting Act (GAO/NSIAD-90-104, May 30, 1990).

- Complete data were available for 10 percent of the cases. However, because of the lack of adequate review or “screening,” the solicitations were issued citing only part numbers. In effect, complete descriptive data were available at DGSC, but procurement officials were unaware of its availability.
- Complete data were available but categorized as proprietary for 17 percent of the cases.
- Incomplete data were available for 46 percent of the cases.
- No data were available for 27 percent of the cases.

All part-numbered solicitations required the same type of information from bidders, regardless of the level of data available. DGSC’s recently implemented procedure for screening all part-numbered buys prior to solicitation issuance should eliminate issuance of part-numbered solicitations in 10 percent of the cases, for which item descriptions (complete data) are available. In the 17 percent of the cases for which complete data are available but proprietary, the requirement to submit data on the items cited in the solicitations is unnecessary; proprietary data, even though not releasable outside the government, could be used as the basis of comparison with the information offerors provide on any alternate offers.

Although in 46 percent of the cases incomplete data were available at DGSC, in some of these cases nearly all of the data needed for competition were available. Moreover, several of the prospective bidders indicated they could not identify the items because only part numbers were provided. Providing even incomplete data to prospective offerors could, in some cases, be beneficial to the government by helping to increase competition.

DOD stated that incomplete data could in some cases result in misidentification of the government’s requirements, as well as delivery of the wrong items, and may cause delays in the procurement process. However, DOD also acknowledged that it should consider whether release of substantial but incomplete data could in some cases be in the government’s best interest. DOD added that release of such data needed to be carefully evaluated.

CBD Notices Need to Be Improved

The Commerce Business Daily (CBD) is a daily publication of proposed government procurements to which contractors interested in doing business with the government can subscribe. Procurement statutes and regulations require CBD notices of proposed awards to (1) increase

issue item descriptions as opposed to part-numbered solicitations. DGSC officials said they had not determined why the services had not made complete data packages available for these items because following up on the large number of items would be time-consuming.

Moreover, DGSC officials provided information showing that DOD is planning to transfer, beginning in June 1991, purchasing responsibility from the services to DLA for a significant number of items, which would increase by approximately one-third the number of items in the DLA management portfolio. These plans increase the importance of ensuring that data available for full and open competition are properly transferred or identified. If the recent experiences on transfer of technical data are not corrected, transferring responsibility for such a high volume of items without access to adequate descriptive data for fully competitive procurements would significantly—and to some extent, perhaps, needlessly—increase the volume of procurements based on other than full and open competition by DGSC as well as the other DLA centers.

Although DGSC officials were unsure why they had not received complete item descriptions for most of the items classified as competitive when they were transferred, these officials suggested the following problems that they believe may be contributing to the situation:

- The military services had never acquired the necessary data from the manufacturer and had simply miscoded the item.
- The services were satisfied with the single source they had been using and, therefore, were not motivated to ensure that DLA received access to all the data available to the government.
- Due to workload backlogs, the services have not assimilated some data into their computerized technical data information systems so that the data can be made available to procuring activities.
- In some instances the original item manufacturer may have updated information on the item and furnished the updates to DOD's data repository, but the repository had not updated the information available to procurement activities.

According to Supplement No. 6 of the Defense Federal Acquisition Regulation Supplement, timely engineering support will be provided to receiving activities when purchasing responsibility is transferred. Also, DOD Instruction 4140.26 on logistic reassignments provides that drawings, full descriptive data, all known sources, and appropriate justifications to support other than full and open competition will be provided to the receiving activities 45 days prior to the transfer. However, based on

- Revise DLA's standard products-offered clause for use in solicitations for part-numbered items and take other steps needed to (1) ensure that such solicitations more clearly describe the nature and extent of technical data actually available to the government, (2) make such data available to potential offerors when this would be in the government's best interest and is permitted by law and regulations, and (3) eliminate any unnecessary data submission requirements on potential offerors, such as when complete but proprietary information is available to the government.
- Ensure that CBD notices for part-numbered solicitations at DGSC more clearly identify the nature and extent of technical data available to the government and the extent to which potential offerors may appropriately have access to such data. DLA should also determine the extent to which this problem exists at other DLA centers and take any needed corrective actions.

We also recommend that the Secretary of Defense require the military services and other DOD components to ensure the completeness of technical data transferred or identified (for purposes of ensuring access) along with the transfer of purchasing responsibility for items when the government is reported to have complete, unrestricted technical data for the items. At a minimum, we believe that the Secretary should (1) emphasize the importance of providing DLA personnel access to all available technical data for competition on items at the time of the transfer of purchasing responsibility and (2) ensure the existence and use of adequate internal controls regarding this matter.

Agency Comments

In commenting orally on a draft of this report, DOD concurred with all of our recommendations. DOD also described actions being taken or planned in response to our recommendations.

- DLA, in conjunction with the military services, is revising the products-offered clause to provide more explicit statements of data availability. DLA also plans to develop procedures for procurement and technical personnel to follow in procuring part-numbered and other items. The planned completion date for both of these actions is September 1991.
- DLA is developing "appropriate procedures," which it plans to complete by September 30, 1991, to describe available technical data in the CBD. DLA is also reviewing if changes are needed at other DLA centers.
- DOD will use a technical data requirements model to determine the level of data to be made available or identified. DOD's basic strategy is for the military services to "push" full technical data packages that are already

Michael E. Motley, Associate Director, and Kevin Tansey, Assistant Director, of our National Security and International Affairs Division, Washington D. C.; and Edwin Soniat, Evaluator-in-Charge, and Hamilton Greene, Jr., Evaluator, of our Norfolk Regional Office.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Paul F. Math". The signature is stylized with a large, sweeping initial "P" and a distinct "M".

Paul F. Math
Director for Research, Development,
Acquisition, and Procurement Issues

available to DLA and/or the General Services Administration for items expected to be procured within 24 months of transfer of responsibility. Drawings not initially provided under this approach and subsequently required to support procurements will be processed by the military services on an expedited basis.

Other DOD comments have been incorporated into the report where appropriate. We also made several wording changes in response to DOD's comments either to update our facts or otherwise clarify our findings and message.

Scope and Methodology

We selected a random sample of contracts valued at over \$25,000 awarded by DGSC between April and June 1988. Our sample size—to achieve statistical validity with a 95 percent confidence level—was 100 contracts. We reviewed each of the 100 contracts, including all preaward information. In addition, we reviewed all available information on bids received, and where the information needed was not clear in the files, we interviewed the contracting officers involved. Finally, we asked DGSC technical personnel to provide information on the availability of technical data for each part-numbered item in our sample. We interviewed DGSC, DLA, and Office of the Secretary of Defense officials to gather information and to discuss the preliminary results of our review. Our review, made from August 1989 to June 1990, primarily at DGSC, was in accordance with generally accepted government auditing standards.

As you know, 31 U.S.C. 720 requires you, as the head of a federal agency, to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of this report, and to the House and Senate Committees on Appropriations with your agency's first request for appropriations made more than 60 days after the date of this report.

We are sending copies of this report to the appropriate congressional committees; the Secretaries of the Army, the Navy, and the Air Force; and the Director, Defense Logistics Agency. Copies will be made available to others upon request.

I can be reached at (202) 275-4587 if you or your staff have any questions concerning this report. Major contributors to this report were

information available at DGSC on item transfers and comments provided by DGSC officials, it appears that units transferring purchasing responsibility to DGSC had not been (1) providing accurate information relating to transfers and/or (2) transferring complete technical data.

DOD stated that (1) it agrees with the principle that complete documentation should be provided or identified when each item is transferred and (2) its policy requires this. However, DOD added that it has not always been practical or cost effective to comply with its policy because of the difficulty or the size of the resources needed to locate large quantities of data involved in mass transfers of items in reasonable time and at reasonable cost. As a result, regarding access to technical data for the planned 1991 transfer, DOD plans to give priority to those items expected to be procured within 24 months of the transfer of responsibility and for which full technical data packages have already been developed.

Agency Actions

During this review we briefed DLA and Office of the Secretary of Defense officials on our preliminary findings and concerns relating to improper classification and processing of solicitations and proposed awards as fully competitive. As a result of those briefings, DLA, effective February 1990, made a major change in its instructions which, if properly implemented, should address this concern DLA-wide. This revision requires review and approval for other than full and open competition whenever solicitations do not provide offerors with access to complete, unrestricted technical data for the items being procured. DLA officials said they estimate that (1) about 60 percent of the agency's fiscal year 1989 procurements exceeding \$25,000 each were based on solicitations that, under the newly revised regulations, would have been categorized, processed, and reviewed as other than full and open competition and (2) these procurements resulted in total obligations of about \$1.8 billion. We considered DLA's timely and responsive actions when formulating our recommendations.

We also briefed DGSC officials on the findings described in this report, and the officials said they agreed with them. In addition, we briefed DLA headquarters and Office of the Secretary of Defense officials regarding our preliminary findings on these matters in June 1990.

Recommendations

We recommend that the Secretary of Defense instruct the Director of DLA to take the following actions:

competition, (2) broaden industry participation in meeting government requirements, and (3) assist small businesses and others in obtaining contracts and subcontracts.

However, our review indicated that the content of DGSC's notices for part-numbered solicitations may have unnecessarily restricted competition. Because procurement officials did not know what data were available to the government for the items, the notices for awards in our sample (1) did not identify the amount of technical data the government had for the solicited items and (2) in many cases misstated the availability of the data. For example, the notices contained the following standard clause: "Specifications, plans, and drawings relating to the procurement described are not available and cannot be furnished by the Government." This clause, which is still being used in all of DGSC's CBD notices for proposed part-numbered buys, in many cases misstated the availability of the data. As a result, we believe it is likely that some prospective bidders were misled on the amount of information available, and opportunities to more effectively encourage competition were missed.

Improvements Are Needed in Transferring Responsibility for Items

According to DGSC officials and the information available at DGSC, the military services often have not transferred or identified all descriptive information reported to be available on items when purchasing responsibility for the items was transferred to DLA.

DGSC officials said that the lack of technical data for needed items had frequently forced DGSC to purchase them using part-numbered solicitations. These officials did not know what technical data were available for all of the nearly 384,000 items DGSC manages, nor could they provide historical information on item transfers from the military services. However, the officials were able to provide some information on items for which purchasing responsibility had been transferred to DGSC from the military services in May, June, and July 1990.

Of the 3,352 items transferred during those 3 months, the transferring service indicated that the government had complete, unrestricted technical data for 525 of them, and these items were candidates for full and open competition. However, the services had provided DGSC with complete technical data packages for only 22 (4 percent) of the 525 items. DGSC officials told us that varying degrees of technical data had been made available to DGSC for the other 502 items classified as fully competitive, but the amount of data available was not sufficient for DGSC to

only one—had been similarly based on only part numbers and were, therefore, inconsistent with full and open competition.

Results in Brief

Of the 1,047 contracts valued at over \$25,000 awarded by DGSC during the third quarter of fiscal year 1988, less than two percent were classified as based on other than full and open competition, and the rest were considered fully competitive. However, our random sample of 100 of those contracts considered fully competitive indicated that 49 percent (with an error rate of plus or minus 5 percent) were based on solicitations giving only part numbers as item descriptions. In general, we believe these purchase descriptions were inconsistent with full and open competition.

Although DLA has recently instituted a procedure to no longer classify and process solicitations based on part numbers as fully competitive, other problems remain. That is, language in DGSC's solicitations based on part numbers and related public notices of proposed contract awards may be unnecessarily restricting competition, primarily because DGSC did not identify the nature and extent of descriptive information (technical data) available to the government on the items being solicited. In addition, DGSC procurement officials often have not received access to all technical data reported to be available on items when purchasing responsibility for the items was transferred from the services to DGSC. Thus, opportunities for competition may be missed.

Better Solicitations May Enhance Competition on Part-Numbered Items

All 49 part-numbered solicitations that we reviewed asked offerors to submit technical data on both the item being solicited and any alternative product offered but usually did not identify descriptive information available at DGSC on items being solicited. A DLA standard products-offered clause, included in all DGSC part-numbered solicitations, asks offerors for data on both the item being solicited and any alternate product being offered so that the agency can determine whether the item offered will meet its needs.

DGSC uses this clause for all part-numbered solicitations regardless of the amount of technical information available to the government for evaluating potential offerors' responses. The part-numbered solicitations in our sample had the following levels of data availability at DGSC during the sample period, April through June 1988:

