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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

B-211991

JULY 29, 1983

The Honorable Edwin B. Forsythe
Ranking Minority Member
Committee on Merchant Marine and Fisheries
House of Representatives

Dear Mr. Forsythe:

Subject: Panama Canal Commission Procurement and
Contracting (GAO/NSIAD-83-1)

This report is in response to a request that GAO review the adequacy of the Panama Canal Commission's procedures for buying goods and services and how well these procedures are applied. Details are discussed in enclosure I.

The Commission generally followed acceptable procedures, with some minor exceptions, when procuring by formal advertising. However, in procuring by negotiation the Commission's practices did not, in most cases, conform to acceptable procedures for agencies of the U.S. Government. As a result, assurances were lacking that prices negotiated and paid by the Commission were fair and reasonable. Commission officials believe they have done a good job of buying goods and services even though they acknowledge less than full compliance with certain requirements.

Executive Order 12352 dated March 17, 1982, calls for each executive agency to appoint a Procurement Executive and requires that the Procurement Executive position be so placed in the agency that (1) independence is ensured in making procurement reforms, and (2) the appointee has clear lines of authority so that accountability will be directly to the head of the agency. In response to the Executive Order, the Commission appointed a Procurement Executive on November 10, 1982. At this time, however, the designated Procurement Executive is serving in that capacity on a part-time basis, his authority and responsibility have not been established, and procurement reforms called for in the Executive Order have not been instituted. Because the procurement actions we examined preceded the naming of the Procurement Executive, the effect of the appointment is not assessed in this report.

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We recommend that the Administrator of the Panama Canal Commission comply with Executive Order 12352. We also recommend that the Administrator

--place the matters discussed in this report on the agenda of the Procurement Executive for resolution, and

--direct the Commission's General Auditor to reexamine, after passage of a reasonable length of time, the agency's performance in ensuring that negotiated procurements are resulting in fair and reasonable prices.

We obtained written comments on a draft of this report from the Commission, which are shown as enclosure IV. The Commission characterized the report as fair and comprehensive and generally agreed with our conclusions and recommendations.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretaries of State, Treasury, Defense, and Army; and the Administrator, Panama Canal Commission.

Sincerely yours,



for Frank C. Conahan
Director

Enclosures - 4

BACKGROUND

The proper goal of a Federal agency's procurement program is to obtain, at fair and reasonable prices, and at the time required, the proper quantity and quality of materials and services. The manner in which the procurement program is conducted in order to achieve this objective is important, but the relative importance of the function varies with the nature, quantity, and complexity of items to be procured. Even so, procurement decisions should seek to use the methods most advantageous to the Federal Government--price, quality, and other factors considered.

The Panama Canal Commission is a U.S. Government agency and its procurement decisions, while similar to those of other Federal agencies, are made in an unique environment. For example, as an appropriated fund agency, the Commission is required to follow Federal Procurement Regulations. These regulations seek to maximize competition and enforce desired social change through preferences for small businesses, minority participation, and labor surplus areas, among others. The Commission, operating in a foreign country and under a treaty which requires preference for Panamanian goods and services, also operates under the Trade Agreements Act of 1979, which expands the sphere for solicitation of competition to some 44 nations. These other nations have customs, laws, and regulations not anticipated by the Federal Procurement Regulations.

The goals and importance of the procurement function were emphasized by the President by issuance of Executive Order 12352 on March 17, 1982. This order seeks to make procurement more effective by, among other things,

- requiring each agency to designate a Procurement Executive with agency-wide responsibility,
- establishing clear lines of authority and accountability for procurement transactions, and
- enhancing effective competition and limiting noncompetitive actions.

The Commission appointed a Procurement Executive on November 10, 1982. At the time of our review the designated Procurement Executive was serving in that capacity on a part-time basis, his authority and responsibility had not been established, and procurement reforms called for in the Executive Order had not been instituted. The transactions discussed in this report all occurred before November 1982. Thus, the effect of the appointment is not assessed in this report.

OBJECTIVES, SCOPE, AND METHODOLOGY

We began our work by determining (1) what procurement procedures the Commission uses, (2) who in the Commission uses them, (3) what these people buy, and (4) how much they buy. Our examination was made in accordance with generally accepted Government auditing standards.

We reached our opinion on the adequacy of Commission procurement procedures by reviewing the procedures, tracing their development, comparing them to checklists in our earlier audits, and interviewing agency personnel. We reached our opinion on how well the procedures were applied by evaluating a judgmentally selected sample of procurement transactions. We used a judgmental sample because the Commission's procurement function is not centralized and, therefore, selection of a representative sample was not practical. We believe, however, that our sample is indicative of the broad range of goods and services procured by the Panama Canal Commission. It includes both advertised and negotiated procurements, and purchases made from suppliers located in the United States, Panama, and other countries for fiscal years 1981 and 1982. Our sample included:

- 13 formally advertised procurements. This type procurement represents the majority of procurement dollars obligated by the Commission.
- 35 negotiated procurements. This includes most of those over \$100,000, and some smaller ones as well.

HOW, WHAT, AND HOW MUCH
IS PURCHASED BY WHOM

The Commission's job is to operate and maintain the Panama Canal. The Commission's largest expense is for people, which accounts for about half of all costs, or about \$190 million per year. The next highest expense is the cost of goods and services procured from others. This amounts to about \$90 million per year.

During fiscal year 1982, the Commission purchased

- equipment, ranging from outboard engines costing a few hundred dollars each to a \$3.8 million tugboat;
- supplies, ranging from paper clips to a \$6.8 million tanker load of fuel; and
- services, ranging from inspection fees to a \$3 million earth-moving contract for excavation of a hill.

The most significant procurements are made by three Commission units, the heads of which have the authority to act as contracting officers. These are:

- General Services Bureau (Storehouse Division): This group is the largest buying organization and purchases everything not specifically delegated to other buying organizations.
- Engineering and Construction Bureau: This organization contracts for renovation and construction such as large earth-moving projects.
- Administrative Services Division: This organization contracts for shipment of employee household goods, personal effects and automobiles, and for shipment of Commission records.

The amounts obligated by these organizations during fiscal years 1981 and 1982 were:

<u>Bureau or Division</u>	<u>FY 1981</u> <u>(millions)</u>	<u>Percent</u>	<u>FY 1982</u> <u>(millions)</u>	<u>Percent</u>
General Services Bureau	\$61.6	87.2	\$82.0	88.5
Engineering and Construction Bureau	8.3	11.8	9.8	10.6
Administrative Services Division	<u>.7</u>	<u>1.0</u>	<u>.8</u>	<u>.9</u>
Total	<u>\$70.6</u>	<u>100.0</u>	<u>\$92.6</u>	<u>100.0</u>

PROCEDURES GENERALLY FOLLOWED FOR FORMALLY ADVERTISED PROCUREMENTS

Formal advertising procedures, when properly followed in a competitive environment, allow the marketplace to set the price. These procedures provide an acceptable level of assurance that prices are fair and reasonable. We found that required procedures generally were followed when making formally advertised procurements. Of the 13 procurement transactions we reviewed from this class, no material problems were identified. Formal advertising accounted for a little over half of the Commission's procurement dollars in fiscal years 1981 and 1982.

DOCUMENTATION OF NEGOTIATED PROCUREMENTS NEEDS IMPROVEMENT

The Federal Procurement Regulations require that procurements over \$10,000 be awarded, wherever practicable, by formal advertising methods. However, the regulations recognize 15 circumstances under which formal advertising may not be possible.

When these circumstances are encountered, certain procedures and safeguards are prescribed to enhance future competition and to provide assurances that prices paid for services and materials are fair and reasonable. In the absence of these safeguards it is difficult to demonstrate fairness and reasonableness of prices.

The Commission used negotiated procurement for about 40 percent of the dollars it obligated for goods and services during the period of our examination. We examined 35 of these procurement transactions and found that the most reliable safeguards, such as documentation of procedures and the use of cost or pricing data, were missing. In the absence of these safeguards we are not sure the prices negotiated were fair and reasonable. The Commission believes it has done a good job of procuring by negotiation. It acknowledges, however, a need to employ more of these basic safeguards in future negotiated procurements.

Documentation of procedures and safeguards

The procedures and safeguards prescribed by the Federal Procurement Regulations for negotiated procurements are required to be documented by a formal memorandum in the contract file. This memorandum should contain the following information:

1. Conferees representing the contractor and the Government.
2. The purpose of the negotiation.
3. Actions taken related to the degree of reliability placed in contractor submitted and certified cost or pricing data.
4. Reasons for not requiring the submission of cost or pricing data in the case of any price negotiation in excess of \$100,000.
5. A summary of the contractor's proposal, the pertinent advisory audit report recommendations, and the reasons for variation from such recommendations.
6. How the initial, revised, or final price was established.
7. An appropriate explanation where the negotiated price differs substantially from the price objective.

The required memorandum was not in any of the procurement files we examined, and Commission officials acknowledged they did not prepare this memorandum for any negotiated procurement.

In lieu of the required memorandum, we reviewed procurement files to ascertain whether the seven principal elements of negotiation were accomplished and the formality of the memorandum simply foregone. We specifically sought to determine

- if certificates of current cost or pricing data were obtained for contracts over \$100,000;
- if the files contained advisory audit reports and recommendations, and if they were used as a pricing tool;
- if statements of determinations and findings were in existence, reasonable, and verifiable; and
- how the initial, revised, or final price was established.

The negotiated procurement files we examined were deficient in all of these areas.

Cost or pricing data

The Federal Procurement Regulations state that "some form of price or cost analysis should be made in connection with every negotiated procurement action." In consonance with this requirement, the contracting officer should require prospective contractors to submit written cost or pricing data¹ prior to the award of any negotiated contract expected to exceed \$100,000 in amount except

- "(1) where the contracting officer determines, in writing, that the price negotiated is based on (i) adequate price competition, (ii) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (iii) prices set by law or regulations, or

¹ The Federal Procurement Regulations define cost and pricing data as follows: "The definition of cost or pricing data embraces more than historical accounting data; it also includes, where applicable, such factors as vendor quotations, nonrecurring costs, changes in production methods and production or procurement volume, unit cost trends such as those associated with labor efficiency, make-or-buy decisions, and new source solicitations, rebates and discounts, or any other management decisions which could reasonably be expected to have significant bearing on costs under the proposed contract. In short, cost or pricing data consists of all facts which can reasonably be expected to contribute to sound estimates of future costs as well as to the validity of costs already incurred."

- (2) where, in exceptional cases, the head of the agency or his authorized designee authorizes the waiver of those requirements and states in writing his reasons for such determination."

The Commission waived the requirement for submission of cost or pricing data in procuring six towing locomotives for over \$6 million, and in contracting for the rewinding and upgrading of power plant generators for over \$2.3 million. In each case, "adequate price competition" was used as a justification when, in fact, no price competition existed. For example, the negotiated price for the locomotives procurement was based on a previous formally advertised procurement awarded to the same contractor for four towing locomotives. The Commission contended that adequate price competition existed because the unit price quoted for the negotiated procurement was the same as the unit price paid under the formally advertised method. There was only one offeror, however, under the advertised tender. The contractor may have tendered its offer in good faith and may have believed that it was competing in price with other suppliers, but this does not diminish the fact that no price competition existed. As a matter of fact, the Commission has procured its entire existing fleet of some 65 towing locomotives from this same supplier. In the case of rewinding and upgrading of power plant generators, only one price offer was received, and no effort was made to secure other offers.

In another sole-source procurement for modifying two tugboats for \$554,000, the contractor requested a waiver for submitting cost or pricing data and submitted none, although there was no evidence that such a waiver was granted. In other negotiated procurements of over \$100,000 each, waivers were not requested nor given, and appropriate cost or pricing data was not submitted.

Audit as a pricing tool

We found no evidence in the negotiated procurement files we examined that advisory audit reports and recommendations had been used as a pricing tool. Commission procurement officials confirmed that they had not asked their General Audit Division or others within the Commission to perform advisory audits because the expertise to perform cost/price analyses does not exist within the Commission. This was confirmed by the Chief of the General Audit Division. Additionally, the use of external audit groups was not considered according to procurement officials.

Statements of determinations and findings

Statements of determinations and supporting findings are required to justify the use of the authority to enter into contracts by negotiation and to waive a requirement for the submission and certification by contractors or subcontractors of cost

or pricing data, among other things. Each statement of determination and findings should contain enough facts and circumstances to clearly and convincingly establish that the use of formal advertising would not have been feasible or practicable, and must be signed by an appropriate official prior to issuance of a request for proposals. In addition to satisfying legal requirements, determination and findings statements are an excellent technique for addressing questionable issues and documenting policy positions of the agency.

In our detailed examination of negotiated procurement records we first looked for determination and findings statements to determine if authority to negotiate existed, and if the statements were reasonable and verifiable. In all cases the determinations and findings were executed after requests for proposals were issued, which is contrary to the requirements of the Federal Procurement Regulations. The information contained in some statements of determinations and findings was not reasonable nor verifiable.

For example, the authority cited to procure the six towing locomotives, previously discussed, by negotiation was "the public exigency will not admit of the delay incident to advertising." The Federal Procurement Regulations state that when using this exception to formal advertising, "* * * the need must be compelling and of unusual urgency, as when the Government would be seriously injured * * *," and cites as an example the immediate need for property or services because of a fire, flood, explosion, or other disaster. Contract documentation did not indicate that such conditions existed. The "public exigency" provision was also used to justify negotiating the \$2.4 million contract for upgrading and rewinding power plant generators. Likewise, documentation in this contract file did not adequately support the determination.

A determination and findings statement supported the sole-source procurement of three consulting service contracts from the same supplier, but was incomplete in its justifications. For example, it did not address the requirements contained in Office of Management and Budget (OMB) Circular A-120 which, among other things, prohibits repeated or extended arrangements with the same supplier of consulting services. The Commission has had an ongoing relationship with this contractor, without any discernible break, for more than 15 years. Although the Commission's General Counsel raised questions about whether or not the salient points of OMB Circular A-120 were being properly addressed, the determination and findings statement did not elaborate on these issues. In this case the determination was made that it was "impracticable to secure competition by formal advertising," but the contract file did not support this determination.

Another example of insufficient data in determination and findings statements was the sole-source procurement of two

employee meals contracts totaling over \$1 million. Questions were raised by some Commission officials as to the legality of providing employee meals, but these questions were not addressed in the determination and findings statement. The Commission also concluded that it was "impracticable to secure competition by formal advertising" in this case, but information in the contract files indicated that another qualified source of supply may have been available.

Bridge between initial and final price

Lacking a memorandum setting forth the principal elements of price negotiation in the procurements we examined, we attempted to determine if the files contained information from which a reasonably informed reader could develop a link between the agency's initial price position and how a revised or final price was established. The Government's initial price position was not documented in the procurement files and there was no way to determine how well the Commission fared against such a price objective in its negotiations. Commission officials believed they had done a good job in negotiating with suppliers, citing one price reduction they had achieved. This reduction, however, represented work not performed or materials not supplied, and was not negotiated from a price objective standpoint.

CONCLUSIONS AND RECOMMENDATIONS

The Commission is primarily a service organization providing the people and equipment needed to transit vessels through the Panama Canal. Accordingly, its procurement objective is to obtain, at fair and reasonable prices, services and materials that will satisfy the timely transit of vessels through the Canal. The procurement procedures of the Commission are based on the Federal Procurement Regulations, but also include an amalgam of corporate procedures left over from the former Panama Canal Company, and prevailing Federal Government practices. They also encompass procedures to comply with the Trade Agreement Act of 1979 and the "Panamanian preference" mandated by the Panama Canal Treaties. We believe that the resulting combination of procedures provides an adequate guide for the Commission which, if followed, would permit the Commission to procure, in a timely manner, needed goods and services at prices which are fair and reasonable.

When procuring by formal advertising, the Commission did a good job of following established procedures. In negotiated procurements, however, proper procedures were not followed and, as a result, we found that it was not practicable to determine if prices paid were fair and reasonable.

Since the issuance of Executive Order 12352 in March 1982, the Commission has appointed a Procurement Executive whose authority and responsibilities are not clear at this time. The

procurement transactions discussed in this report preceded the appointment of this procurement official, so the effect of the appointment is not assessed in this report. The Executive Order requires, however, that the Procurement Executive be independent and report directly to the head of agency. In light of this, we offer three general recommendations to the Panama Canal Commission. The Administrator, Panama Canal Commission, should

- ensure that the position of Procurement Executive is made and maintained independent of line authority within the Commission, and that the Procurement Executive be made accountable only to the head of the agency;
- ensure that the matters discussed in this report are included on the agenda of the Procurement Executive for consideration, study, and resolution; and
- direct the General Auditor, Panama Canal Commission, after passage of a reasonable period of time, to reexamine the Commission's performance in assuring fairness and reasonableness of prices for negotiated procurements.

AGENCY COMMENTS

We obtained written comments from the Commission on a draft of this report, which are shown as enclosure IV. The Administrator, Panama Canal Commission, characterized our report as being generally fair and comprehensive, and agreed with our conclusions and recommendations. The Administrator acknowledged that cost or pricing analyses were not performed for those procurements exceeding \$100,000 in amount, but was satisfied that the contracting officer exercised reasonable care, skill and judgment in reaching pricing decisions. Notwithstanding this, cost or price analyses for this class of procurements is required by the Federal Procurement Regulations. This requirement is not intended to replace the decision-making attributes of the contracting officer but, rather, should enhance his ability to make pricing decisions most advantageous to the Government. The Commission agreed to perform such analyses in its fiscal year 1983 procurements.

The Commission also agreed to reexamine the need to use contract audit as a pricing tool, but expressed reservations that additional professional staff would be necessary. We do not believe that the Commission would necessarily have to hire additional staff to conduct contract audits. Expertise can be developed in this important area of procurement with training programs for existing procurement and audit staff. In special cases the Commission could use outside experts, such as the Defense Contract Audit Agency, to supplement their resources.

FISCAL YEAR 1981
PROCUREMENT ACTIONS EXAMINED

FORMALLY ADVERTISED

<u>SUPPLIER</u>	<u>AMOUNT</u>
Texaco Antilles, Ltd.	\$ 7,225,000.00
Gulf Trading and Transportation Co.	6,557,500.00
Gulf Petroleum, S.A.	533,964.00
Productos Quimicos, S.A.	314,700.00
Furlow-Laughlin Equipment, Inc.	164,378.80
Thompson-Hayward Chemical Co.	65,286.00
Moderna, S.A.	59,970.00
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Total	\$14,920,798.80
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NEGOTIATED

<u>SUPPLIER</u>	<u>AMOUNT</u>
Mitsubishi Corporation	\$ 6,048,600.00
General Electric Technical Services Co., Inc.	2,385,090.00
IARSA Cafeteria, Balboa <u>1/</u>	509,340.00
IARSA Cafeteria, Margarita <u>1/</u>	508,230.00
Ingersoll Rand, S.A.	118,116.00
Ingersoll-Rand, S.A.	41,000.00
Lee Tractor Co., Inc.	96,590.40
Calgon Interamerican Corp.	83,532.00
Schottel of America, Inc.	77,359.52
Schottel of America, Inc.	71,483.54
Canal Zone Credit Union	45,300.00
Contadora Resort and Casino	7,609.00
Aero Perlas, S.A.	870.00
Panama Area Exchange	680.00
Panama Area Exchange	328.00
Panama Area Exchange	929.70
Panama Area Exchange	1,040.00
Panama Area Exchange	1,020.00
Panama Area Exchange	532.80
Panama Area Exchange	2,147.16
Panama Area Exchange	1,200.00
Panama Area Exchange	552.30
Panama Area Exchange	1,040.00
Panama Area Exchange	684.00
Marine Exchange	1,234.35
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Total	\$10,004,508.77
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1/ 2-year contracts continuing into fiscal year 1982.

FISCAL YEAR 1982
PROCUREMENT ACTIONS EXAMINED

FORMALLY ADVERTISED

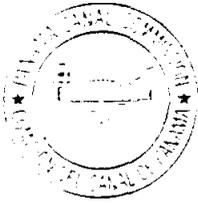
<u>SUPPLIER</u>	<u>AMOUNT</u>
Gulf Marine and Service Company	\$ 2,532,800.00
Gulf Marine and Service Company	2,365,600.00
Kenner Marine and Machinery, Inc.	760,000.00
Contract Services <u>1/</u>	498,440.16
Servicio de Autobuses del Corregimiento de Ancon <u>1/</u>	336,000.00
Industria Metalurgica de Panama, S.A.	<u>181,680.00</u>
Total	<u>\$ 6,674,520.16</u>

NEGOTIATED

<u>SUPPLIER</u>	<u>AMOUNT</u>
Bollinger Machine Shop and Shipyard	\$ 3,845,794.00
Schottel of America, Inc.	521,250.00
IARSA Cafeteria, Balboa <u>2/</u>	275,035.80
Cafeterias, S.A. <u>2/</u>	201,919.80
Arthur Andersen and Company	253,000.00
Arthur Andersen and Company	120,000.00
Arthur Andersen and Company	13,000.00
Tractores de Oruga, S.A.	218,530.00
Pearce Davis	7,500.00
Jerome G. Greene	<u>3,000.00</u>
Total	<u>\$ 5,459,029.60</u>

1/ 2-year contracts originating in fiscal year 1981.

2/ 2-year contracts originating in fiscal year 1981.



PANAMA CANAL COMMISSION

OFFICE OF THE ADMINISTRATOR

BALBOA
REPUBLIC OF PANAMAU.S. MAILING ADDRESS
APO MIAMI 34011

JUL 1 1983

Mr. Frank C. Conahan
 Director, National Security and
 International Affairs Division
 United States General Accounting Office
 Washington, D. C. 20548

Dear Mr. Conahan:

We have reviewed the GAO's draft report B-211991 concerning Panama Canal Commission procurement and contracting, which was forwarded with your letter of June 20, 1983. I appreciate the opportunity to provide our comments and request that they be included as an attachment to the report to Congressman Forsythe.

The draft report concludes that the Commission did a good job of following established procedures when procuring by formal advertising. This conclusion is particularly significant in light of the unique environment in which the report recognizes that the Commission operates; the complicated and sometimes conflicting regulations which apply to the Commission's procurements; and the profound changes which have impacted on the Commission's workforce in the past few years. Moreover, it is noteworthy that the majority of the Commission's procurement dollars are still obligated by the formal advertising method, while the corresponding figure for the Federal Government as a whole is now less than eight percent (Senate Report 98-50, Competition in Contracting Act of 1983, S. 338, March 31, 1983; data on p. 10). The Commission has, and will continue to adhere to the formal advertising method whenever feasible in obligating our procurement dollars.

The report concludes that, in negotiated procurements, certain proper procedures were not followed. Because of that, GAO could not determine if prices paid were fair and reasonable. The report states that the Commission believes it has done a good job of procuring by negotiation. Negotiated procurements are identified as having accounted for 40 percent of the dollar obligations for the period examined. It should be noted that within that negotiated category of procurements, about 15 percent were small purchases under \$10,000 each. As you know, small purchases are negotiated under procedures which, throughout the Government, are much less restrictive (41 CFR 1-3.6) than are those for procurements over \$10,000. These simplified procedures are intended to reduce administrative costs and eliminate costly and time-consuming paper processes. The deficiencies in procedure cited in the report should not be attributed to small purchases.

Mr. Frank C. Conahan

JUL 1 1983

In perspective, the proportion of Commission procurements which are cited procedurally, that is, negotiated procurements over \$10,000 each, is approximately one-quarter of the total dollar obligation. These procurements were firm, fixed price contracts largely awarded on a competitive basis (request for proposals and subsequent negotiations). While it is true that memoranda for the file were omitted for these actions, it is equally true that, in most cases, the prices negotiated were based on adequate competition or established catalog or market prices for commercial items sold publicly. A number of different methods of price review were used and some form of price analysis was made in each of these procurements.

Only negotiated procurements over \$100,000 require submission or waiver of cost or pricing data, and then, only when price is not based on established market prices or adequate price competition. When the contracting officer determines (in writing) that such competition or established prices exist, cost or pricing data need not be required. This determination for the record is the document that is missing in several of our files. Of the 30 Commission negotiated procurements in FY 1982 that exceeded \$100,000, only a few actually warranted full pricing or cost analysis. Subsequent to review by the Commission's internal auditors in 1982, the Commission has begun to perform such analysis in its FY 1983 procurements. Even without it, however, I am satisfied that the contracting officer in each of our negotiated procurements over \$100,000 exercised reasonable care, skill and judgment in reaching the pricing decision.

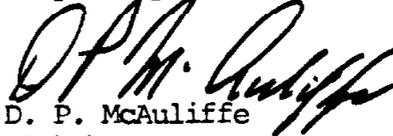
Finally, the report makes two recommendations regarding the role and direction of the Procurement Executive and one recommendation concerning reexamination of procurement practices by the General Auditor of the Commission. The report posits that the Commission should begin to do what it has not done, i.e., strictly require cost or pricing data and use advisory audit reviews as a pricing tool for its few negotiated procurements which exceed \$100,000. Heretofore, the number and dollar obligations of such specialized procurements have been of a magnitude that did not, in the judgment of Commission management, warrant the addition of professional staff at the level of expense required to perform the audits and pricing reviews now recommended. In other words, there was serious doubt that three or four additional positions at \$40-50,000 apiece annually would pay their way in contract savings in the context of this agency's procurement program. The Commission's procurement managers still doubt it. However, in light of the finding in this report regarding the importance of documentation of negotiated procurements, I will direct the Procurement Executive to reexamine the matter and to recommend a course of action which, in his judgment, will protect the Commission's procurement dollar in the most cost-effective manner.

JUL

Mr. Frank C. Conahan

With some minor exceptions, this report appears to be generally fair and comprehensive in its coverage of this agency's procurement program, although the major findings concerning negotiated procurements should be weighed in relation to the proportion of such procurements within the agency's overall program. It is noted, also, that this is the first GAO examination of the adequacy of the Commission's procedures for procuring goods and services in many years. Viewed in that perspective, the Commission is pleased to review the conclusions and accept the recommendations. The work that was done in regard to this important program of the Commission is appreciated.

Very truly yours,



D. P. McAuliffe
Administrator