

STATEMENT OF DAVID H. SAFAVIAN
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BEFORE THE
FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION
AND INTERNATIONAL SECURITY SUBCOMMITTEE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS
UNITED STATES SENATE
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Good afternoon Chairman Coburn, Ranking Member Carper and other distinguished members of the committee. Thank you for inviting me here today to testify on the General Services Administration's (GSA) procurement practices and fee structure.

Chairman Coburn, you have called this hearing today because you are rightly concerned about the taxpayer getting the best deal when the federal government uses hard earned tax dollars to buy goods and services. I, too, share that concern and consider it my chief responsibility as the Administrator for Federal Procurement Policy. My most important performance metric is to identify ways the Office of Federal Procurement Policy (OFPP) can improve the federal acquisition process and ensure that the federal government is getting the 'best value' when it acquires goods and services.

Leveraging Taxpayer Dollars

The federal government will spend approximately \$300 billion next year on goods and services. No other nation or company rivals our buying power. The American taxpayers have every right to expect that they are getting the best deal out there. Unfortunately, we are not all the way there yet. The federal government has only recently begun to aggregate and leverage our buying power. Also referred to as strategic sourcing, leveraging our purchasing power is a much more difficult challenge for the federal government than it may first appear. Realizing the full potential of leveraging involves collecting and managing the necessary data, developing an acquisition workforce that

thinks strategically and possesses the right skill set, and creating and establishing strategic acquisition vehicles for commodities. This concept of realizing the full potential of leveraging forces the federal government requires that we think in terms of ‘the end cost to the taxpayer’ instead of ‘the end cost to the agency.’

I believe that the (GSA) is uniquely positioned to play a lead role in this endeavor. GSA is the only agency whose sole purpose is to find the best way of procuring goods, services, and buildings for other federal agencies. By doing so, GSA’s customers may concentrate their time and resources on accomplishing their respective mission and serving the American public. For GSA, the mission *is* acquisition. It is their responsibility to understand all of the complex laws and regulations that govern the federal market. It is their duty to know their customer agencies – to understand their requirements and their mission, and to buy efficiently. I consider it my duty as the OFPP Administrator, to ensure that my office creates the policies and provides the necessary guidance for GSA to accomplish this mission.

GSA and Strategic Sourcing

As OFPP Administrator I have been a strong advocate of increasing the use of leveraging the government’s buying power through strategic sourcing¹. This has been evident through my vocal support of designated common acquisition vehicles, which aggregate the purchases of commodities already being made across government. This past May, Clay Johnson, OMB’s Deputy Director for Management, sent out a memorandum to Chief Acquisition Officers, Chief Financial Officers, and Chief Information Officers asking them to identify by October 1, 2005 at least three commodities that could benefit from the application of strategic sourcing. The identification of the three commodities, is intended to be the beginnings of a strategic sourcing pilot program, which each agency will execute under its agency-wide strategic sourcing plan coordinated by each agency’s Chief Acquisition Officer. I believe that GSA has already demonstrated the ability to

¹ Strategic sourcing is the collaborative and structured process of critically analyzing an organization’s spending and using this information to make business decisions about acquiring commodities and services more effectively and efficiently.

lead in strategic sourcing initiatives that successfully leverage the government's buying power through the success of the FTS2001 telecom contract (soon to be replaced by Networx), and the management of the SmartBuy program².

On telecom contracts, GSA receives pricing of up to 50% lower than standard commercial rates. By treating telecom as a commodity and leveraging buyer power, we expect even better performance as GSA brings its next generation contract known as Networx online. Recently, GSA led the SmartBuy team that brokered a deal with Oracle that will reduce by 75% to 84% the price of enterprise licenses³. The SmartBuy program establishes a single contract vehicle that every agency must use if it needs Oracle products. This is the fifth SmartBuy agreement – and the largest to date. Others will be forthcoming.

GSA already performs the bulk of the interagency contracting for the federal government, in addition to being the manager of the largest number of interagency acquisition vehicles. Additionally, as noted in a July 2002 GAO report on Contract Management Fees, GSA has established an infrastructure to collect the data necessary to determine a total cost of operations. Thus, I believe that GSA is well positioned to begin collecting and analyzing customer buying patterns necessary to identify trends that may be used to leverage our buying power more effectively. The result would be a measurably more effective use of taxpayer dollars. I am hopeful that GSA will take advantage of the timing of their reorganization to position the agency as a leader in strategic sourcing for the federal government – a value added function for agencies and the taxpayers alike.

Now, I must admit that I have a fondness for GSA. Prior to coming to OMB, I served as Chief of Staff of the agency for two years. During my tenure at GSA, I became familiar

² SmartBUY is a government-wide enterprise software licensing initiative, created by OMB, that streamlines the acquisition process and provides best priced, standards-compliant Information Technology (IT). SmartBUY does not mandate the use of a particular brand; rather, it mandates the use of the cost-effective common vehicle when an agency decides to purchase the software of a designated brand.

³ The U.S. General Services Administration (GSA) is designated the Executive Agent for the program under Section 5112(e) of the Clinger-Cohen Act and leads the interagency team in negotiating government-wide enterprise licenses for software.

with the hard working people and the complex and varied operations of GSA's three components: the Federal Technology Service (FTS), the Federal Supply Service, and the Public Building Service (PBS). I found it very disheartening when I began reading the press coverage of contracting improprieties at FTS. I believe that GSA reacted swiftly and appropriately by asking the Inspector General to audit each region to determine if inappropriate contract practices identified in one region were also taking place in others. In addition to requiring disciplinary action, where necessary, Administrator Perry immediately launched the current "Get It Right" effort which emphasizes customer acumen and employee training, an institutional focus on ethics and compliance, and documentation of due diligence. With continued high level management attention by GSA and its customers, this effort will pay off in terms of better quality acquisitions that drive best value for the customer agencies.

Roles and Responsibilities in Interagency Contracting

The improper use of the GSA's IT Fund, a critical component of effective interagency contracting for information technology, drew necessary attention to the problems in interagency contracting identified in 2005 GAO High-Risk report. OMB recognizes that interagency contracting practices need to be improved to reduce the risk that results from poor acquisition management, both by the managers of interagency contracts and the customers that use them. We have been and continue to work with GSA on steps toward improvement on adherence to sound fiscal principles, such as making sure that monies are used for their intended purpose and obligated within the period Congress made the funds available. OMB strongly supports steps that GSA is taking to ensure full compliance with the law. Equally important, we appreciate that customers, such as DOD, are also taking steps to remind buyers that funding limitations remain in effect even when an acquisition is done on an interagency basis. Scope and "color of money" issues will continue to be the subject of heightened Office of Federal Procurement Policy (OFPP) and OMB scrutiny.

The challenge GSA is currently seeking to address reflects the increasing reliance agencies are placing on GSA's interagency contracting vehicles. Interagency contracting

offers an important tool for agencies to buy commonly used goods and services at prices that reflect the government's buying power. But like all acquisition tools, interagency contracting has its challenges. These challenges include making sure that the roles and responsibilities between agencies that provide services and the agencies that buy services from them are clearly delineated. It also includes making sure that when monies are transferred from one agency to another to pay for goods and services, the monies are used for their intended purpose and within the period and limitations that Congress has made them available for obligation.

The Federal Supply Service has had its share of criticism in recent months as well. In February, GAO released a report on GSA's multiple award contracts that revealed serious deficiencies in proper documentation in the contract files, a lack of oversight and follow-through in regards to pre and post award audits, and missed opportunities to make sure GSA is getting the best value for its customer agency and the taxpayer.

OMB is pleased that GSA has already taken several actions in response to the February GAO report. An internal working group with GSA's Office of Inspector General (OIG) has been established to address deficiencies in the audit process. Audits have increased, and the pre-negotiation panels are now mandatory and include reporting requirements. FSS has also stepped up their customer training efforts on the Schedules through both on-site training sessions, as well as web-based training. OMB considers this an important remediation tool. It is imperative that customer agencies understand that they have an obligation to conduct secondary negotiations directly with vendors when buying in bulk off of the GSA Schedules, so that the purchasing power of taxpayers is maximized whenever possible⁴.

It now appears to OMB that performing customer training on use of the schedule as well as pre-award due diligence, including audits, is a high priority at FSS. OMB expects to

⁴ The list Schedule prices negotiated by GSA are intended to be the Most Favored Customer pricing for every item; however, GSA's negotiations do not assume or guarantee any particular volume level.

continue to work with GSA to ensure that this emphasis will continue after GSA merges their two acquisition services.

I firmly believe that building a right-sized acquisition workforce with the right skill set given the appropriate resources is the best solution to the problems we have seen in interagency contracting and to the other contracting problems we are seeing in the federal market. Over the past fifteen years we have more than doubled the number of contracting actions, while reducing the acquisition workforce by one-sixth. Retirements threaten to further deplete our workforce. According to a study the Federal Acquisition Institute released in April, the government could lose up to 30 percent of its contract specialists in the next four years to retirement and fifty-one percent will be eligible by 2014. Add to that the fact that acquisitions have grown in dollar amount, become more complex, and almost always involve an IT component. All of these factors combined are presenting a daunting challenge to our aging acquisition workforce.

I am also concerned about the large number of workforce leaving government for the private sector. Improving and preserving the acquisition workforce has been one of my top priorities since coming to OMB. In April, OFPP issued new governmentwide training standards for the acquisition workforce. By creating more mobility and career advancement opportunities, my intent is to promote retention and maximize the use of the federal government's top acquisition talent. In addition, having one standard set of certification requirements for contracting officials allows the civilian agencies to leverage our limited training resources by working with DOD. This spring, OFPP moved the Federal Acquisition Institute to Fort Belvoir, Va., home of the Defense Acquisition University, so that the two institutions can harmonize their training programs and share best practices.

There have been a limited number of instances where officials responsible for managing interagency contracting have acted inappropriately, putting at risk the flexibilities granted to the federal acquisition workforce in the 1990s. A healthy acquisition system must hold these individuals accountable to discourage further abuse and retain needed acquisition

flexibilities. The integrity of the federal market depends upon the enforcement of the rules. That said, I have cautioned GSA and the acquisition workforce community at large not to lose sight of the fact that the regulations which govern procurement, the Federal Acquisition Regulation, encourage innovation and creativity to meet the acquisition demands of a 21st Century government.

The streamlined reforms Congress granted to us in the 1990s took federal acquisition out of the days of being a never-ending series of standardized checklists and specifications. Back then, there was little room for deviations or outside-the-box solutions to address complex acquisition issues for which there were few clear guidelines. Thankfully, through the Clinger-Cohen Act, Federal Acquisition Streamlining Act and other reforms, Congress provided much needed flexibilities. Acquisition processes became streamlined and innovative acquisition programs practices, such as the SmartBuy program, the Networx program⁵ and performance based service acquisition and performance based service acquisition slowly began emerging. Acquisition practices such as these allow the federal government to state their requirements, and contractors to propose whatever method of meeting those requirements they view as the most efficient. The government then gets to select from the various types of solutions proposed. The taxpayer wins when the federal government has the opportunity to leverage industry's expertise to propose more efficient and cost-effective ways of meeting a requirement.

Some of the GSA procurement violations of the past can be attributed to a lack of understanding on the part of customer agencies as to regulations governing the IT Fund. Although the use of the IT Fund is limited to technology procurements, we have seen situations in which IT funds were errantly used in non-IT acquisitions. Moreover, interagency contracting often requires the involvement of multiple parties, including contracting, program, and finance officials from both the customer agency and the servicing agency -- in this case GSA. These parties have not always understood their respective roles and responsibilities, including any applicable appropriations limitations. To address these concerns, OFPP is working with the Defense Acquisition University

⁵ the Networx program consists of two multiple award procurements (i.e., Universal and Enterprise).

(DAU) and the Federal Acquisition Institute (FAI) to ensure that our training curriculum appropriately educates the acquisition workforce on effective interagency contracting.

OMB has also strengthened governance over the Government-wide Acquisition Contract (GWAC) ⁶ Executive Agent designations and renewals. GWACs, which are operated by Executive Agents designated by OMB, seek to help agencies leverage their resources with other agencies to obtain favorable pricing, terms, and conditions that are reflective of the government's buying power. GSA is the Executive Agent with the largest number of GWACs.

As part of the process for Executive Agent designation, OFPP is asking agencies to establish quality assurance plans, which ensure that GWACs are facilitating cost-effective and responsible contracting. This includes making sure that there is a clear understanding of the role and responsibilities between the Executive Agent and its customer. For instance, the executive agent should remind customers to use the government-wide past performance retrieval system to record contractor information regarding contractor performance on individual orders and make such information available to source selection officials in awarding subsequent task orders for the same or similar supplies and/or services.

FSS currently manages GSA's GWACs⁷, which are all associated with FSS's General Supply Fund.

Federal Acquisition Service: The Future of GSA

The President's FY 2006 budget proposes to merge GSA's IT and General Supply funds in conjunction with merging of its two acquisition services. The proposal is largely

⁶ Six agencies currently serve as executive agents of government-wide acquisition contracts (GWACs) pursuant to designations granted by OMB under section 5112(e) of the Clinger-Cohen Act of 1996, 40 U.S.C. 11302(e): (1) GSA, (2) NASA, (3) DOC, (4) HHS (NIH), (5) Agriculture, and (6) EPA. Each individual designation from OMB to the agency defines the scope of the designation (i.e., no agency has blanket authority).

⁷ FTS2001, and the follow-on Networx contract, also hold an Executive Agent Designation and are managed by FTS.

driven by an interest in streamlining operations, facilitating internal communication and partnering, and improving customer service. However, by combining the two funds, OMB believes that some of the past misuses of the IT fund will be avoided. At the time the IT Fund was created, it was much easier to distinguish between an IT acquisition and a non-IT acquisition. Since that time the federal acquisition market has shifted from being primarily products-based to primarily service-based, often with significant IT components. Under current market conditions, it is often difficult to determine if these "IT related" acquisitions may be made using IT funds. OMB agrees with GSA that many of the cases now under the microscope fall under this gray area. In order to address this problem and bring the federal acquisition fund structure in line with the current market conditions, I am advocating for Congressional support for the merger as described in the President's FY 2006 Budget.

Interagency Contracting Fees

I understand that the Subcommittee has a particular concern with the fees associated with interagency contracting and is concerned that these fees may not always reflect the best interests of the taxpayer. I share the Subcommittee's desire to ensure that fees are assessed consistently with sound financial management practices so customers may consistently secure high quality goods and services at lower costs. This morning, Emily Murphy from GSA will describe how their funding authorities operate. I would like to augment her discussion with several general guideposts that I intend to use to ensure that fees are being assessed in a sound manner.

First, as a general matter, projected total revenue generated by the use of an interagency contract must not exceed the projected actual costs. Revenues generated in excess of the agency's actual costs must be transferred to the Treasury's Miscellaneous Receipts. Accordingly, fees must be adjusted periodically so that total revenues do not exceed actual costs.

We continue to advocate the lowest possible fee level at GSA and all other fee-for service organizations. Last year, GSA returned over \$100M in excess revenue to the U.S.

Treasury. This year, GSA expects to make another large Treasury deposit. As most of this revenue was derived from the IFF, OMB believes that it may be necessary to lower this fee in the near future. We will work with GSA to perform an evaluation of the fund so that further fee reductions may be put in place if warranted. However, we also recognize that GSA is mid-stride through a massive reorganization and that their revenue has been less consistent over the recent year. The prospective consolidations of FTS and FSS into FAS and of the IT Fund and the GSF are expected to lower operating cost and streamline internal processes for GSA. So long as GSA's revenue intake remains stable, the lower operating cost of the consolidated FAS organization should allow GSA to lower fees once the implementation of the reorganization plan is completed and accessed. As GSA evaluates its organizational structure, we will want them to ensure, to the extent possible, that fees for each business line fully support its activities, generating revenue that equals the expenses for the services it provides. This will require that GSA identify all costs associated with its activities and assign these costs to appropriate business lines.

With respect to GWACs, we have been working with our executive agents to enhance their reporting on revenues and costs. We hope this will help to provide a clearer indicator of cost-effectiveness and help OMB in understanding if and when adjustments may need to be made to fees. OMB is also reviewing fees assessed by franchise funds. We have concerns about the transparency of the use of franchise funds fees and how they are being used. We appreciate that franchise funds are authorized to retain 4% of the total annual income taken in by the fund, so long as it is used for the acquisition of capital equipment or for the improvement and implementation of department financial management and support systems. This notwithstanding, we must still ensure their activities, like those of any other service provider are consistent with sound fiscal management.

Second, fees should reflect the level of assisted service requested on a given contract. If an agency conducts an acquisition through a GWAC using their own contracting personnel, then they would pay the base fee. The fee would escalate concurrently with the level of assisted service requested of the fee-for-service agency. You may be

thinking, “if the agency receives no assisted service, why pay the fee?” In this instance, just like when a purchase is made directly off the Schedules, the customer agency is paying a fee to cover the cost associated with setting up and managing that vehicle.

I understand the Committee has a specific concern over the multiple layers of fees, which can be charged when a fee-for-service agency uses a vehicle such as a GWAC or a Multiple Award Schedule (MAS) during the course of an assisted acquisition and charges the customer agency two fees: one fee for the assistance and a fee for use of the GWAC or MAS vehicle. This practice occurs internally at GSA quite often. In fact, FTS is one of biggest users of the FSS Schedules program. The same practice of charging multiple fees during an assisted acquisition may also occur between any two fee-for-service organizations (i.e. Interior’s GovWorks may use NASA’s GWAC or FSS’s Schedules).

In some instances, paying two separate fees for assistance with one acquisition project may actually make the most sense, when evaluated from the standpoint of the total cost of the project. In addition to benefiting from having a contracting officer perform all of the necessary market research, documentation, and paperwork, the customer agencies using an assisted acquisition service also receives an acquisition strategy from acquisition experts, presumably with both contracting and programmatic expertise. So, if an agency is seeking assistance with a technology acquisition, they would choose FTS. Particularly in the instance of large, complex, or unusually technical procurements, enlisting the help of an assisted acquisition service, like FTS, may be the most efficient and cost-effective method of conducting the acquisition. A seven percent fee may seem large in the abstract, but may be well justified for an agency with a complex requirement in need of acquisition expertise that might otherwise be left entering a hastily negotiated contract that puts the taxpayer at risk.

Large, complex projects often involve multiple acquisitions; an assisted acquisition service may opt to use an acquisition vehicle already in place for some of the acquisitions, such as the FSS Schedules program. In this instance, it may seem like it would be more economical for the customer agency to separate this acquisition from the

rest of the project and execute it themselves by using the Schedules. This may not be true for two reasons: 1) the customer agency loses the benefit of receiving comprehensive acquisition guidance if they choose to split the project into separate acquisitions and conduct some themselves and 2) the assisted acquisition service can conduct additional negotiations with Schedule vendors to ensure lower prices consummate with the volume of the purchase.

Third, we must take steps to improve the transparency of fees. Customer agencies need to be fully apprised of the fees that are to be assessed so they can make a determination that use of the contract and any needed assisted services is in the best interest of the taxpayer. I intend to work with our executive agents and other service providers to ensure that every effort is being made to disclose fee information to agency customers.

Chairman Coburn, I want to thank you very much for the opportunity to testify before you today. I look forward to working with you and the committee as we strive toward our common goal of getting the most out every of taxpayer dollar. I am happy to respond to any questions you may have.