United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

December 14, 2010

The Honorable Daniel I. Gordon
Administrator, Office of Federal Procurement Policy
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW, Room 263
Washington, DC 20503

Dear Mr. Gordon:

This year, the Subcommittee on Contracting Oversight held two hearings on interagency contracting. On February 25, 2010, the Subcommittee held a hearing entitled "Interagency Contracts (Part I): Overview and Recommendations for Reform." The hearing brought together a panel of former agency officials and legal experts to explore the reasons behind the proliferation of interagency vehicles, to discuss whether agencies are creating and using the vehicles responsibly, and to examine potential reforms. To address concerns raised during this hearing, on June 30, 2010, the Subcommittee held a subsequent hearing entitled "Interagency Contracts (Part II): Management and Oversight" to hear testimony from you and other current government acquisition leaders.

At the Subcommittee's June 30, 2010 hearing, you testified regarding efforts by the Office of Management and Budget (OMB) to achieve government-wide savings in interagency contracts. To assist with your efforts, this letter provides a summary of the recommendations offered at the Subcommittee's two hearings. These recommendations include: (1) improving data; (2) strengthening oversight; (3) strengthening the General Services Administration's Multiple Award Schedules (MAS) program; (4) lowering costs; and (5) investing in the acquisition workforce.

- **Improve the Availability and Accessibility of Data.** Witnesses at both hearings repeatedly highlighted the lack of accurate, accessible data about interagency contracts. In February, Steven Schooner, Associate Professor of Law at the George Washington University Law School, asserted that interagency contracts "simply lack or fail to meet the high standards for transparency that we aspire to in our procurement system." Ralph C. Nash, Professor Emeritus at the George Washington University Law School, reasoned that "if we just use transparency and put the data out there in the open—how much more did you pay and what did you get for it—I think that would do a great deal to cast light on this system of how we are buying things." These sentiments were echoed in June by John K. Needham, Director of Acquisition and Sourcing Management at the U.S.

Government Accountability Office (GAO). He stated that "No one knows the universe of contracts available, and when there is information, there are inaccuracies in the data."

- **Strengthen Oversight.** Witnesses at both hearings discussed the lack of consistent government-wide policy on the creation, use, and cost of awarding and administering interagency contracts. While recent legislation and OMB initiatives are expected to improve the management of some forms of interagency contracts, there are no initiatives currently underway to strengthen the oversight of enterprise-wide contracts. This is problematic as agencies unknowingly contract for the same goods and services with many of the same vendors to provide similar products and services, increasing cost to both the vendor and the government. To address this problem, Mr. Needham recommended developing a framework that provides a more coordinated approach in awarding both enterprise-wide award contracts and Multiple Award Contracts (MACs). He also recommended that OMB require agencies to complete a business case analysis before enterprise-wide contracts and MACs are established. You agreed with this recommendation.

- **Strengthen GSA's MAS Program.** Mr. Needham testified that GSA should focus on being the provider of choice for government agencies by effectively managing the MAS program and offering the best prices. Steven Kempf, Acting Commissioner of the GSA's Federal Acquisition Service, explained that developing training on how to use the MAS program will be integral to achieving this goal so that the acquisition workforce knows how to leverage the program to obtain discounts. GSA should also put a greater emphasis on customer satisfaction and outreach, beginning with improvements to their customer surveys so that they are able to obtain the insights they need to evaluate program performance. Diane Frasier, Director of the Office of Acquisition Management and Policy at the National Institutes of Health (NIH), explained that many agencies use NIH's information technology acquisition vehicles to meet their information technology needs because NIH "looks at customer service as being [their] primary focus" by ensuring that, among other things, their help desk is useful to their customers.

  I suggested that GSA Advantage, GSA's online shopping and ordering system, should allow contracting officials to post reviews of contractors and the products and services they offer. I also encouraged GSA to require vendors to post pictures of their products on GSA Advantage.

- **Establish Requirements or Create Incentives to Seek the Lowest Cost.** Although you assured the Subcommittee during the June hearing that agencies consistently seek the lowest prices, Mr. Needham disputed this point. He stated that GAO looked at 320 cases of agencies using blanket purchase agreements (BPAs) in 2008 and found that agencies did not attempt to receive discounts in 47 percent of those cases. Mr. Needham added that while officials are required under the FAR to make a yearly assessment of whether the prices negotiated were beneficial, this was done in only 6% of the cases GAO reviewed. Ms. Frasier stated that while the acquisition community is taught that they should be reviewing all the prices and selecting the best available price, whether they do so "in practice" is "debatable."

You acknowledged that once cost-saving measures are implemented, providing the Government-wide Strategic Sourcing Initiative for overnight delivery services as an example, it is a challenge for OMB to ensure that government agencies use these vehicles instead of other contracts. Based on this testimony, I suggested that there should be a requirement or strong incentives for agencies to use the vehicles which provide the best value for the government.

- **Invest in the Acquisition Workforce.** The witnesses agreed that sufficient, trained acquisition workforce personnel are necessary to ensure that interagency contracts are properly managed and overseen. In January, Mr. Joshua Schwartz, Professor of Law at George Washington University Law School, stated that the most effective means of improving government contracting was through investing in the Federal acquisition workforce. In June, Mr. Richard Gunderson, Acting Chief Procurement Officer for the Department of Homeland Security, stated that "any opportunity there is to support workforce initiatives in the acquisition workforce is critical," and that "[a]s much as we can continue to invest in that workforce, get them the training, get the appropriate staffing in the respective offices, that will go a long way."

  Beyond increasing hiring and improving training where appropriate, it is also important that we retain our best employees. To do so, Senator Scott Brown and I recommended exploring the possibility of creating financial incentives for acquisition personnel, and particularly for those acquisition personnel that consistently achieve cost savings for the federal government.

Significant work remains to ensure that interagency contracting is as efficient and effective as possible. I appreciate your continued partnership in improving interagency contracting and I look forward to working with you in the future.

Please contact me or have your staff contact Margaret Daum at (202) 224-8316 with any questions. Please send any official correspondence relating to this request to kelsey_stroud@hsgac.senate.gov.

Sincerely,

Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

cc: Scott Brown
Ranking Member