

STATEMENT OF DR. ROBERT L. FAIRMAN,
DEPUTY ASSISTANT SECRETARY OF TRANSPORTATION
FOR ADMINISTRATION,
AT A JOINT HEARING BEFORE THE
HUMAN RESOURCES SUBCOMMITTEE
HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE
AND THE
CIVIL SERVICE AND GENERAL SERVICES SUBCOMMITTEE
SENATE GOVERNMENTAL AFFAIRS COMMITTEE

APRIL 3, 1980

Mr. Chairmen and Members of the Subcommittee:

We appreciate the opportunity to appear before you to discuss the General Accounting Office (GAO) report entitled, "Controls over Consulting Service Contracts at Federal Agencies Need Tightening." My name is Robert L. Fairman and I am the Deputy Assistant Secretary of Transportation for Administration. Joining me this morning is Stephen J. Greenberg, of the Office of Installations and Logistics, who is the Manager of the Department's Contract Information System.

As a career Federal manager, I concur wholeheartedly in your desire to increase governmental efficiency and to insure that the people of this country see their tax dollars spent in the most beneficial way.

In response to the GAO report, it should be noted that the agencies were not requested to comment on a draft of the entire report. At the debriefing conference, GAO provided rough excerpts of what was planned to comprise a portion of the report. Because the information was out of context and without sufficient background narrative, we chose not to make comments. We did, however, respond to the Office of Federal Procurement Policy Administrator's request for information on the GAO report. In addition to an overall statement concerning the use of consulting service contracts in the DOT, we supplied narrative comments on each of our contracts discussed in the body of the GAO report. These statements are included for the record (Exhibit A).

I would now like to address and elaborate upon the points discussed in the report.

Scope of the GAO Review

The GAO's review examined 20 DOT contracts awarded over three fiscal years (1977, 1978, and 1979). During that period, the Department processed over 30,000 actions on contracts, each with a value of more than \$10,000. The GAO reviewed 20 contracts which were selected on a non-random, judgmental basis after they had full access to our files and records. It is also interesting to note that only 11 of the 20 contracts were discussed in the body of the report.

Requirements for Consulting Services

Virtually all contracts for consulting services have resulted from a directed requirement imposed by sources external to the operating administration making the award. We have no reason to believe that any administration has failed to survey its in-house capabilities before resorting to a contract for consulting services.

In general, we are satisfied that the results of contract studies are fully used and are helpful in the Department in the successful management of its programs. There are occasions when changes in administrations or policy, or unforeseen events, may dictate a subsequent management decision to modify the way the results of a study contract are used. It is improper, however, to consider such a work product useless or unnecessary for this reason.

Use of Former Employees

Several contracts were discussed in the report because they were awarded to firms which used former DOT employees to perform a portion of the work. The GAO report did not state that the Conflict of Interest Regulations were violated. Furthermore, it does not appear to be in the best interest of the Government to disqualify or ignore professional expertise solely because it was gained while employed in Federal service.

Last Quarter Spending

Sufficient lead time has long been an important consideration

in making contract awards. We take exception to the report's comments which imply that a large portion of the Department's awards are made during the last quarter of a fiscal year. I would like to provide for the record (Exhibit C) a summary of the Department's contract obligations for Fiscal Year 1979, by quarter, for actions on contracts with a value of over \$10,000. Only 33.6% of our actions, amounting to 26.7% of the dollars, were awarded in the fourth quarter.

A requirement which becomes apparent early in the fiscal year may, because of funding uncertainties and procurement lead time, be awarded late in the fiscal year. I believe that if GAO had had an opportunity to examine the date when the requirement had become known, or when procurement action had been initiated, they would have found that of the 11 contracts discussed in the report, only two were the result of procurement action initiated in the last quarter of the fiscal year. One of those two was not awarded until the first quarter of the next

fiscal year. I would like to provide (Exhibit D) an analysis of this point for the record.

We have underway a program which will reduce procurement lead time even further. The DOT budget request for Fiscal Year 1981 includes funds to begin a Department-wide program to automate the procurement process. Automation, we believe, will significantly reduce lead time, eliminate paperwork, make better use of professional man-hours, produce better quality procurements, save money, and further minimize the number of awards made in the fourth quarter.

Department of Transportation Policy

We believe that we have adequate policy guidelines and controls in the justification required to contract for consulting services. These are stated in the DOT Procurement Regulations, Subpart 12-50.3 (Exhibit B). The regulations contain a policy statement, and limitations on and requirements for justification for procuring consulting services.

OMB Definition of Consulting Services

We consider the definition used in Office of Management and Budget Bulletin 78-11, Guidelines for the Use of Consulting Services, adequate for our needs. The Bulletin was disseminated upon issuance for use by all appropriate DOT offices. In addition, we have incorporated this definition, with reference to 78-11, into the reporting instructions for the DOT Contract Information System (CIS).

There is, to be sure, room for interpretation in the definition, and this fact probably accounts for discrepancies in reporting consulting service awards. In this regard, we would like to see an expanded list of examples of services included in and excluded from the definition. We understand that the Office of Management and Budget (OMB) will issue a new Circular to supercede 78-11. When it is issued, we will make any necessary revisions to the DOT Procurement Regulations and reporting instructions for the CIS.

Single Sources

Consulting service contracts in the DOT have characteristically been one-time requirements in which sound advice from noted experts was required within a short period of time. When there has been sufficient lead time, full competitive procedures have been followed. When single sources have been contracted with, it has been only with adequate justification for doing so.

The Department's regulations for the review and approval of sole source procurements have been in effect for eight years.

Approval of such procurements is always at a level above the contracting officer. Proposed sole source awards over \$100,000 must be approved by the head of an operating administration or his deputy, and then only upon favorable review of a Sole

- Source Board comprised of senior-level members including an attorney and a procurement official. For awards of \$25,000 to \$100,000, approval is delegated to the appropriate Associate Administrator, without power of further redelegation. Even

in situations where a sole source justification is not required, DOT regulations prohibit non-competitive procurement when competitive sources exist.

In summary, Mr. Chairmen, we realize that all Federal agencies are coming under ever closer scrutiny to insure that we contract only for those supplies and services which we need, and that we do so under the maximum possible competitive procedures. The Department of Transportation does not use consulting service arrangements to circumvent employment ceilings, nor do we procure useless services. We believe that we make proper, non-excessive use of consulting service contracts. The total value of consulting service contracts in Fiscal Year 1978 represented approximately one percent (1%) of our total procurement dollars. In hindsight, there may be some gray areas. I assure you, Mr. Chairmen, that we at the Department of Transportation are committed to eliminating

these questionable uses. I appreciate the opportunity to appear before you today. I will be happy to answer any questions you may have.