



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

*File under
611*

B-193861

24 AUG 1979

The Honorable Jack Brooks
Chairman, Committee on Government
Operations
House of Representatives

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Dear Mr. Chairman:

On July 20, 1979, the Director, Federal Judicial Center wrote to you in response to our June 21, 1979, interim report (FGMSD-79-30, B-193861), as required by the Legislative Reorganization Act of 1970. We feel you may be interested in our comments to his letter.

In December 1978, we initiated a survey to review allegations we had received to the effect that the Federal Judicial Center (FJC) was acquiring automatic data processing (ADP) equipment without complying with the Brooks Act (Public Law 89-306) and General Services Administration (GSA) Federal Procurement Regulations and competitive procurement statutes.

The Center officials maintained that the FJC was exempt from the provisions of the Brooks Act, as well as implementing GSA regulations, relating to the procurement of computer equipment or related software services because (1) the provisions in the legislation that created the Center show the Congress intent that the Center be exempt from legislation otherwise requiring central control over the procurement of ADP resources, and (2) the need for the Center's independence from GSA involvement in ADP resources procurement is provided by the legislation in the Speedy Trial Act of 1974, which marshals the resources of the entire Federal judiciary to resolve the problems of criminal case delay.

We reviewed the legislative histories of the Center and the Speedy Trial Act and could find no support for the Center's position. As a result, we issued (1) Comptroller General Decision of March 27, 1979, (B-193861) which held that the Federal Judicial Center must comply with the Brooks Act and the General Services Administration implementing regulations in all ADP equipment and services procurements, and (2) an interim report (referred to above) to provide the Center with the opportunity to consider other observations in making future ADP decisions, since our work on the Center's ADP operations is continuing.

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[Acquisition of Automatic Data Processing Equipment
at Federal Judicial Center]

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The Federal Judicial Center letter of July 20, 1979, to you suggests that the report contained factual misstatements and discusses various points which were not covered in our work.

Our report was based on the facts we were able to obtain by reference to official Center records and documents, and, where such material was not available, by interviews with the Center staff. As is mentioned in the Center's letter, not all of its "analysis or surveys pertaining to COURTRAN resulted in formal, written reports; some were incorporated in internal memoranda (provided to GAO) and some were covered in briefings to the Board." Despite this sparse documentation, we believe the information we obtained is substantially accurate, and we stand by our report.

The Center maintains that (1) the first three of its large computers were procured competitively and were specifically referred to in the Request for Proposal (RFP), and (2) the fourth computer (not referred to in the RFP) was acquired under the same competitively secured contract. (The Center actually procured five central processing units--the "computer" portion of the system.)

In reviewing the Center's documents the initial purchase order covered only one computer and that purchase order contained no reference to planned future procurements based on the RFP. Subsequent computers were acquired with three separate purchase orders (two on one order) and the prices for each varied. No reference was made in the purchase orders to GSA ADP Price Schedule contracts or prices proposed by the Digital Equipment Corporation. Because each acquisition reflected a separate procurement and could not be tied to the competitive proposal, we reported that only the first large computer was acquired competitively.

However, in view of the fact that the Center has purchased the computer equipment now on hand, we see no value in further discussing each purchase transaction. The important point is that as a result of the Comptroller General Decision, the Federal Judicial Center is clearly subject to the Brooks Act provisions in all future procurement actions. We consider this a step forward.

You may be concerned, however, with the Center's position that, since the Federal Judicial Center is subject to the provisions of the Brooks Act, it will not be able to achieve economies in future procurement actions. We believe this is contrary to the intent of the act and represents a misconception on the part of the Center. The Center is not precluded by the

Brooks Act provisions from negotiating competitive prices for computers.

Because the Center agreed to comply with the recommendations contained in the letter and the Comptroller General Decision, we feel there is no point in responding to the other matters mentioned in the Center's letter. Should you or members of the staff wish further information, we will be happy to furnish it.

We are sending copies of this letter to the Chairman, Senate Committee on Governmental Affairs; the Chairmen, House and Senate Committees on Appropriations; and the Chairmen, House and Senate Committees on the Judiciary.

Sincerely yours,

John D. Heller

Acting Comptroller General
of the United States

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