

TRUTH IN NEGOTIATIONS ACT

I think probably as shocking a thing as I know was the apparent failure of the Defense Department to implement the Truth in Negotiations Act, and the statement of the General Accounting Office that although they do do post auditing, that the Defense Department says they can't do post auditing, that DoD can't get access to the books.

We interrogated to find out. Well, surely if these are negotiated contracts, and these are independent contracting parties, namely the Government and private contractors, you can put into the contract itself the right to look at books and records and whatever is necessary. Maybe we ought to have a response to that.

Is it the Defense Department's position that they can't have post-audits, that they can't do this kind of auditing of these contracts that GAO has been doing, and come up with some of these points that they have made to us?

Mr. IGNATIUS. We will respond to that. Let me say in regard to competition I will welcome your comments after you have had a chance to review the situation again.

Let me simply say that in 1966, despite the urgency of many of our procurements in support of our operations in Vietnam, the DoD as a whole increased the amount of its price competitive procurement from 43.4 percent in fiscal 1965 to 44.4 percent in fiscal 1966, despite the exigencies of the war. Secondly, if I may say so—

Representative CURTIS. Wait, let me stop you there just a minute.

Mr. IGNATIUS. Yes, sir.

Representative CURTIS. This is true if we can count on the definition of "competitive." That is why I say we go right to the heart of this thing, and now I am finding that I have to review very carefully what the Defense Department has called competitive.

Mr. IGNATIUS. The definition is—

Representative CURTIS. Now on the other thing, the exigencies of the war are there. But one of the points that I have thought was very good that the Defense Department has said was that they were able to handle this war with great efficiencies. Also, you have said that the war is a lesser percentage of the gross national product than any previous one, and so forth.

I recognize the problems that exist when you have a heated-up situation. But let's don't argue both ways. Let's get to the one question I did ask on this proposed auditing. What is the position of the Defense Department? Can you or can't you postaudit? Do you or don't you postaudit?

Mr. IGNATIUS. The question with respect to postaudit differs by type of contractor—whether it is cost reimbursable or whether it is fixed type.

We also postaudit under cost-reimbursable contracts. With regard to fixed-price-type contracts our practice with regard to postaudit has been limited to an audit up to the time of award under fixed-price contracts, and not afterwards. The question of whether it should be extended beyond that in the case of firm fixed-price contracts is now under study in the Defense Department, between the Comptroller's Officer and my office, and no decision has been reached as yet.