

There is a narrow area applying to firm fixed-price contracts in which the General Accounting Office has from the Congress authority to audit the actual costs that were incurred under that fixed-price contract, and we have never done that in the Department of Defense.

Chairman PROXMIRE. How much money is involved per year? How much money would be involved last year in contracts that have this exemption from access to the contractor's records? How many billions of dollars?

Mr. MALLOY. I don't have that. I will try to develop that figure for the record, Mr. Chairman. We know of course the total number of firm fixed-price contracts. We would have to make an estimate of the number of the total that the law applied to. I think we could, and I will certainly try.

(The information referred to follows:)

We do not have the precise number and dollar amount of noncompetitive firm fixed price contracts of \$100,000 or more executed in fiscal year 1966 in which the Department of Defense would have had access to contractors' records under Public Law 87-653—if that had been our policy during that fiscal year. However, from other procurement statistical data we estimate that there were approximately 4,500 such contracts with an estimated value of \$4 billion.

Chairman PROXMIRE. You say that the Comptroller General has a law. Do you feel that you would have to have a law? Couldn't you simply put it in your contract. You have a postaudit?

Mr. MALLOY. We certainly could provide for this contractually, though I should point out that another committee of the Congress last year indicated in one of its reports that at least in the judgment of that committee, the provision of this type of an audit should not be done by contract, and maybe ought to be a matter for the Congress to consider.

But it certainly as a technical matter could be done by contract, and if the results of our current discussions indicate that we are going to proceed on this basis, we will do it by a contract provision.

Chairman PROXMIRE. Certainly we ought to have a proposition in the Defense Department that either you go ahead on the basis of making a contract that you can postaudit, or you can request Congress for a law authorizing you to do so, because meanwhile we are losing billions of dollars. Are we not? These postaudits pick up in general, they are inclined to pick up a substantial amount of difference.

Mr. MALLOY. We might, Mr. Chairman, but I think as Secretary Ignatius said earlier, that we are concerned as we analyze this matter—and we have not made our decision yet—but we are concerned that we preserve the integrity of firm fixed-price contracting, because we think that this has great advantages to the Government.

What we would like to do is to have the best of both worlds, and we are considering various alternatives that might give us the optimum approach to the matter.

BUSINESSLIKE COST ESTIMATING SYSTEMS

Chairman PROXMIRE. There was testimony yesterday that the Defense Department had been dallying for 10 years despite recommendations from its own auditors and from the GAO on the question of whether to require contractors to adopt what was called business-