

Similar clauses have been provided for price adjustment to formal advertised contracts, and negotiated contracts that are not firm fixed price.

Mr. STAATS. We believe that the revised regulations will accomplish by administrative action what would be required by enactment by the legislation. We recognize that regulations are more easily changed or rescinded than an act of Congress and are perhaps more susceptible to misinterpretation or oversight.

While we have no reason to anticipate, in this case, that the regulations will be either later rescinded or not followed, we would, of course, have no objection if the Congress should decide to enact this provision into law. We intend to observe closely the contracting agencies' practices with regard to the regulations.

HISTORY OF NEGOTIATED PROCUREMENT SINCE 1947

Chairman PROXMIRE. I would like to ask about that.

The Armed Services Procurement Act was passed in 1947?

Mr. STAATS. That is right.

Chairman PROXMIRE. And the Government could have made contract provisions consistent with the Truth in Negotiations Act, Public Law 87-653 and in the proposed amendment, any time in the last 20 years?

Mr. STAATS. They could have; yes.

Chairman PROXMIRE. But they didn't see the need until you made numerous reports to the Congress.

Mr. STAATS. I think that is correct. I believe this particular issue came more sharply into focus after the Truth in Negotiations Act of 1962 was enacted.

Chairman PROXMIRE. The GAO finally persuaded the Congress, in our judgment, to enact the Truth in Negotiations Act?

Mr. STAATS. It was a result of many reports by the GAO to the Congress.

Chairman PROXMIRE. Until that there was no requirement that the contractors provide, even though the overwhelming part of procurements were by negotiations and this is the only discipline by which you can keep the costs where they should be, there was no requirement in law on regulation that the contractor provide accurate, up-to-date and comprehensive records.

Mr. STAATS. I believe that is correct. It is a matter of law.

Chairman PROXMIRE. Did the Defense Department favor the enactment of that legislation?

Mr. STAATS. Mr. Welch or Mr. Bailey are better able to answer that.

Mr. WELCH. As I recall, Mr. Chairman, DOD initially took the position that this legislation was not necessary because similar requirements were already contained in the ASPR. Also, I would like to point out that the General Accounting Office has the right to examine contractors' books and records and subcontractors' books and records under negotiated contracts which stems back to the examination of records law that was passed in 1951. We are talking here about the agency's representatives' rights to examine subcontractors' records.