

SELECTED REPRINT

**DISTRICT OF COLUMBIA: AUTHORITY NEEDS TO IMPROVE
ITS PROCUREMENT PRACTICES**

U.S. General Accounting Office*

ABSTRACT. Allegations have been made about procurement improprieties at the District of Columbia Financial Responsibility and Management Assistant Authority, which Congress established in 1995 to repair the District's failing financial condition and to improve the effectiveness of city operations. The Authority was given the authority to award contracts itself and to review and approve contracts awarded by the District. GAO found that the Authority did not always comply with its procurement regulations and procedures or follow sound contracting principles when it awarded and administered the nine contracts GAO assessed. In addition, the Authority's files for these contracts were incomplete.

BACKGROUND

On April 17, 1995, the President signed the District of Columbia Financial Responsibility and Management Assistance Act of 1995, P.L. 104_8, which established the Authority to repair the District's failing financial condition and to improve the efficiency and effectiveness of its various agencies. The Act also permits the Authority to:

- S contract for goods and services for its own mission,
- S contract for goods and services on behalf of District agencies, and
- S review and approve contracts processed by District agencies.

* *Reprinted from an August 1999 U.S. General Accounting Office report, "District of Columbia Authority Needs to Improve Its Procurement Practices," (GAO/GGD-99-134). Several sections were left out, including its transmittal letter, "Results in Brief," "Appendix 3," and modifications in references.*

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In addition, on August 5, 1997, the President signed into law the National Capital Revitalization and Self_Government Improvement Act, Title XI of P.L. 105_33. Under the Act, the Authority was directed

to develop management reform plans for nine agencies and four citywide functions. The Act also required the Authority to award the management reform consultant contracts within 30 days from the date of its enactment, unless the Authority notified Congress, in which case the Authority could take 60 days.

The Authority is an independent entity within the government of the District and is statutorily exempt from adhering to the District's procurement regulations. In addition, because the Authority is not an agency of the federal government, it does not have to comply with federal procurement statutes or regulations, such as the Federal Acquisition Regulation. In March 1996, the Authority promulgated its own procurement regulations that are intended to permit the procurement of property and services efficiently and at either the least cost to or the best value for the Authority. The Authority's contracting authority is statutorily vested in its Executive Director, who is also the designated Contracting Officer. According to the Authority's regulations, the Executive Director may at any time waive¹ any provisions of the regulations, with the exception of the provision regarding the avoidance of conflicts or impropriety and the appearance of conflict or impropriety.

The Authority's regulations prescribe some of the basic procurement principles, including:

- S the avoidance of conflicts or impropriety and the appearance of conflict or impropriety;
- S a preference for competition among potential sources to ensure fair and reasonable prices and best value for the Authority;
- S use of sole source contracting only when it makes good business sense or promotes the Authority's mission and is justified in writing and, if the contract exceeds \$100,000 on an annual basis is approved by the Authority's Chair;
- S identification of potential sources to achieve the benefits of competition;
- S publication of the Authority's requirements to make potential qualified sources aware of the Authority's requirements;
- S preparation of statements of work that include a thorough description of the required services, a delivery schedule, and standards for measuring the contractor's performance; and

S monitoring of contractor performance and certification of satisfactory performance prior to payment of contractor invoices.

In addition, the Authority's regulations prescribe procedures for simplified and formal contracting. According to the regulations, the Executive Director shall determine the type of procurement action that is appropriate for the use of simplified contracting procedures. The regulations state that simplified contracting procedures must be used when the value of the procurement is not expected to exceed \$100,000 and/or when the nature of the goods or services to be provided is appropriate for these procedures. Under simplified contracting, the regulations prescribe procedures for obtaining competition, preparing written solicitations, evaluating proposals, and awarding contracts. For example, the Executive Director is responsible for making the final determination for contract selection based on the written recommendation of the technical evaluation team.

The Authority's regulations state that formal contracting procedures are mandatory for contract actions that may result in the Authority's expenditure of \$500,000 or more on an annual basis and may be used for competitive contract actions estimated at less than \$500,000. Under formal contracting, the regulations prescribe procedures for preparing written solicitations, evaluating proposals, and awarding contracts. For example, the Executive Director's decision for contract selection is required to be supportable, documented, and based on the evaluation factors. In addition, under the formal contracting procedures, the Executive Director may conduct negotiations with qualified offerors. The regulations also require that the negotiation sessions be fully documented whenever they occur. The Executive Director is also required to perform cost/price analysis when a single offer is received in response to a competitive solicitation or when the contract will not have a fixed price. The regulations further state that when fair and adequate price competition is obtained, a comparison among proposed prices and to the Authority's estimate is generally adequate to verify that the prices offered are reasonable.

Other than some requirements on the preparation and use of statements of work, the Authority's regulations do not prescribe specific requirements governing contract actions between \$100,000 and \$500,000, nor do they set forth specific requirements governing contract modifications or contract options.

The Authority also promulgated regulations in November 1995 for reviewing and approving contracts submitted by the District government. These regulations describe in detail the proposed contracts that are required to be submitted to the Authority for review and approval. Examples include sole source contracts, contracts for services exceeding \$25,000, and any contract proposed as an emergency procurement. The regulations further state that no contract that is required to be submitted to the Authority shall be awarded unless the Authority has approved the proposed contract or unless the Authority specifically declined to exercise its power to review and approve the contract prior to award. Subsequently, most recently on February 26, 1998, the Authority adopted resolutions amending the regulations by modifying the definition of contracts required to be submitted for review and approval.

According to the Authority's procurement regulations, the Executive Director may from time to time delegate specific contracting and procurement responsibility and authority to various members of the Authority's staff. The Authority's regulations also require that when authority is delegated to a staff member to serve as a contracting officer, the delegation is to be in writing. Prior to reorganizing in December 1997, the Authority's contracting staff consisted of a Director of Procurement and full_time complement of five staff persons, including a Procurement Analyst and two Contract Specialists.² In early 1998, the Authority changed the scope and magnitude of its procurement operations by reducing the number of procurements done to support its own mission and reducing the number of District contracts to be reviewed and approved. As of April 1999, there were two full_time staff_ a Senior Procurement Specialist and an independent contractor who served as the Contract Specialist_involved in the award and administration of Authority contracts. The Authority's Executive Director, Deputy General Counsel, and Chief Financial Officer also assisted these staff members. In addition, the District's CPO also awarded and administered several Authority contracts on behalf of the Authority.

In January 1998, the Authority hired a CMO to assist the Authority in carrying out its management reform responsibilities. The CMO reported to the Chairperson of the Authority and was responsible for overseeing the management reform efforts for nine District agencies and four citywide functions, including procurement. In February 1999, the CMO resigned from her position.

From its inception in April 1995 through September 30, 1998, the Authority reports that it awarded 141 contracts for almost \$81 million. These contracts include procurements done by the Authority to accomplish its own mission or done by the Authority on behalf of the District.

SCOPE AND METHODOLOGY

We reviewed a total of 12 contracts and their associated contract actions that were awarded in fiscal years 1996 through 1998. Ten of the 12 contracts were awarded by the Authority and the other 2 were awarded by the District's CPO. As stated previously, although we reviewed a total of 10 contracts awarded by the Authority, we assessed compliance with the Authority's regulations for 9 contracts because 1 contract (Thompson, Cobb, Bazilio and Associates, contract number FY96/FRA#2) was awarded before the Authority's regulations were adopted in March 1996.

As you specifically requested, we focused on the contracts that were awarded for the Authority's former CMO and to Thompson, Cobb, Bazilio and Associates. According to the Authority, 17 of its 141 contracts were awarded on behalf of its former CMO; we judgmentally selected six of those contracts to obtain a mix of management reform and executive recruitment services contracts. We selected the other six contracts because you specifically requested that we examine them. They include the four contracts awarded to Thompson, Cobb, Bazilio and Associates by the Authority and the two contracts awarded to Smart Management Services by the District's CPO. Appendix 1 provides additional information on the contracts we reviewed, and Appendix 2 contains additional information on the award and administration of the contract awarded prior to the adoption of the Authority's regulations.

We reviewed the contract files to determine whether the Authority and the District's CPO followed applicable procurement regulations when they awarded the contracts we assessed. For example, we reviewed the contract files to determine whether (1) competition was sought, (2) the basis for contract selection was documented, (3) sole source contracts had written justification, (4) contractors' performance was monitored, and (5) the Authority received the required deliverables before payment of invoices. To supplement our contract file review, we judgmentally selected three of the eight contractors who were retained by the

Authority and the District's CPO to obtain a mix of contractors who were required to provide management reform or executive recruitment services and visited them at their offices to obtain information on the Authority's procurement process.

For the contract that was awarded prior to the adoption of the Authority's regulations, we reviewed the information in the contract file to determine what information was available to document key contract award and administration decisions, including the basis for contract selection and whether the file contained evidence that the Authority received the services it paid for.

As stated previously, the regulations provide that the Executive Director shall determine whether a particular request for procurement is appropriate for simplified contracting. However, we found no documentation in the contract files that this was done. Consequently, it was not apparent which method of contracting was used by the Authority to award Boulware a \$105,000 contract because the regulations do not specify which procedures, simplified or formal, apply to contracts that are between \$100,000 and \$500,000.

In addition, we reviewed the Authority's and District's procurement regulations and procedures, the Authority's review and approval regulations governing submission by the District for contracts, and interviewed Authority and District officials involved in contract award and contract administration. We also reviewed several reports of studies done by other entities on the Authority and District's procurement process (D.C. Office of The Inspector General, 1999; Digital Systems International Corporation, 1999; D.C. Financial Responsibility and Management Assistance Authority, 1997). However, as agreed with your offices, we did not review the Authority's process or controls for ensuring that its review and approval regulations governing District contracts were being followed.

Although our findings can only be applied to the contracts we reviewed, other reviews of the Authority and District's procurement processes have reported similar findings and conclusions. For example, DSIC reviewed over 100 Authority contracts that totaled \$47.2 million and were awarded between August 1995 and September 1998.

We conducted our review in Washington, D.C.; Houston, TX; and Chicago, IL; from September 1998 to July 1999 in accordance with

generally accepted government auditing standards. We obtained comments on a draft of this report from the Authority and the District's CPO. These comments are summarized in the agency comment section of this report and are discussed in the report where appropriate.

THE AUTHORITY DID NOT ALWAYS COMPLY WITH ITS PROCUREMENT REGULATIONS

Although the Authority's procurement regulations set forth some basic requirements for contract award, we found that the Authority did not always comply with its procurement regulations or follow sound contracting principles for the nine contracts that we assessed. As stated previously, the Authority's former Executive Director³ was able to waive almost any provision of the regulations; however, he stated that a waiver was not granted for any of the contracts awarded by the Authority.

In its comments on a draft of this report, the Authority said that our statement that "according to the former Executive Director, the provisions in the procurement regulations have never been waived" is not quite accurate. The Authority commented that its former Executive Director said that its regulations had never been waived in writing. The former Executive Director did not make this distinction when we met with him. While the Authority's regulations do not state whether the waiver has to be in writing, we disagree with the Authority's position that once a contract is executed by its Executive Director and approved by the Chair, any irregularities with respect to its award have been waived.

The failure to follow the Authority's regulatory requirements could occur at several stages in the contracting process, and the Executive Director may not necessarily be aware of what regulatory requirements his contracting staff may have failed to follow. If the execution of a contract by the Executive Director constitutes a waiver of any Authority contracting requirement, regardless of whether the Executive Director knew of a contracting deficiency, there would be essentially no accountability for the actions of the Authority or its employees. Such a process would, in effect, render the regulations useless.

The contract files we reviewed indicated that the Authority sought competition for seven of the nine contracts we assessed. However, the contract files contained little or no evidence that the Authority (1) documented its basis for contract selection for the three contracts where it is specifically required by the regulations; (2) prepared written

justification for one sole source contract award or a series of "modifications" to another contract that, in effect, was a sole source award; or (3) documented its contract negotiations as required by the regulations for the two contracts where the Authority stated that negotiations had occurred.

After we completed our review of the ten contract files, we notified the Authority of missing documents and requested that they be provided. On May 21, 1999, the Authority's former Executive Director provided us with a letter to explain how he made his contract selection decisions, but did not provide any additional documentation.

Basis for Contract Selection Generally Not Documented

Of the 9 contracts we assessed, we found that the Authority did not document its basis for contract selection, as specifically required by its regulations, for the three contracts that were awarded to Managing Total Performance, Management Partners, and the Urban Center. The Authority's regulations require the Executive Director's decision for contract selection to be supportable, documented, reasonable, and based on the technical evaluation report for contracts that total \$500,000 or more. For example, there was no evidence in the contract file documenting the Authority's basis for awarding to Managing Total Performance a \$796,600 contract for phase I management reform work or adding \$10.6 million in modifications to this contract. The contract file also contained information that indicated that the Authority received several other proposals but contained no documentation explaining why Managing Total Performance was selected or the other proposals were not selected.

In addition, under simplified contracting, when written proposals are received the evaluation panel is required to document the basis for its initial recommendation for contract selection, including a brief description of why the recommended proposal offers the best value of all proposals received. The evaluation panel's basis for its initial recommendation for contract selection was not documented in the contract files for the four contracts where simplified contracting procedures applied. For example, the Authority awarded a \$54,000 contract which was later modified to \$94,500 to the Gaebler Group to establish a management task force to provide management and technical assistance to its former CMO. The Authority's contract file contained six

proposals in response to the solicitation, but there was no evidence in the contract file documenting the Authority's basis for selecting the Gaebler Group. There also was no evidence in the contract file that the other five firms were not qualified or were less qualified to provide the required services. In addition, the Authority's technical evaluation panel and its former CMO both initially recommended another contractor.

The other cases involve the three contracts the Authority awarded to Thompson, Cobb, Bazilio and Associates totaling over \$153,000 to audit its financial statements and the enrollment in the District's public schools. However, the Authority did not document its basis for selecting this particular contractor for any of the three contracts. The absence of a clearly documented selection process left no written record to review the basis for contract selection for the contracts we assessed or to determine whether the awards were made at the lowest cost or best value and whether offerors were treated fairly.

In response to our request for the basis for contract selections for the contracts we reviewed, with respect to the former CMO contracts, the Authority's former Executive Director said that the proposals submitted were evaluated by the selection committee. However, the final decisions concerning contract awards to vendors, the acceptability of individuals proposed as members of the team, and the tasks to which teams and individuals were assigned were made by the former CMO. In addition, the former Executive Director specifically acknowledged that the Gaebler Group was not the recommendation of the selection committee and said that the former CMO determined that she needed additional management assistance and believed that the Gaebler Group could perform the tasks within the time constraints. There was nothing in the contract file to explain the former CMO's position.

The former Executive Director also said that he determined that it was in the Authority's best interest to approve the \$10.6 million in modifications to the Managing Total Performance contract, even though the total price of the modifications was greater than the original contract price, because the Authority and District agencies had already fallen behind in implementing management reform. Finally, the former Executive Director said that he awarded the three contracts to Thompson, Cobb, Bazilio and Associates based on recommendations from the Authority's contracting staff and his personal knowledge and experience with the firm.

In commenting on a draft of this report, the Authority said that the basis for contract selection for the contracts awarded to the Gaebler Group, Management Partners, the Urban Center, and Managing Total Performance is contained in memorandums dated March 18, 1998, and September 4, 1997. However, these documents do not contain the Executive Director's basis for contractor selection. In addition, the contract files contained no explanation of the difference between the evaluation panel's recommendation and the selection of the Gaebler Group as previously discussed.

The Authority commented that the Executive Director's signature on the contract as the contracting officer constitutes documentation for the basis for contract selection. The Authority also believes that the award of a contract in accordance with the recommendation of the selection team is an adoption of that recommendation and is thus the basis for contract selection. We agree in cases of simplified contracting where the Executive Director accepts the panel's recommendation that the Executive Director's signature on the contract constitutes documentation of the basis for contract selection, as asserted by the Authority. However, according to the Authority's regulations, specifically chapter 5, section F.1., the Executive Director is required to prepare a memorandum detailing the procurement and the rationale for the contract selection for contracts over \$500,000. Therefore, under these formal contracting procedures, the Executive Director's signature on the contract would not satisfy this regulatory requirement.

Justification for Sole Source Contracts Not Always Substantiated

We found that the Authority did not comply with its regulations when it awarded one sole source contract and executed a series of "modifications" to another contract that became, in effect, a sole source award. The Authority's regulations require that all sole source contracts be accompanied by a written justification and, if the contract exceeds \$100,000 on an annual basis, be approved by the Authority's Chair. However, we found that the Deputy Management Officer for the Authority's former CMO entered into a verbal agreement on a noncompetitive basis without written justification or the Authority Chair's approval. The contractor, Boulware, was to provide executive recruitment services for six senior_level management positions that were already included in the scope of work for another contract. Authority officials said that the verbal agreement was an unauthorized procurement

but later ratified the agreement and awarded a \$105,000 sole source contract to Boulware.

According to the written justification that was prepared 3 months after the verbal agreement, the Authority's basis for the sole source award was twofold. First, the original contractor was not performing in accordance with the terms of the contract; however, we found nothing in the original contractor's file to substantiate this assertion. Second, as stated in the justification the selected firm was the only firm with the requisite knowledge and skills to perform the required services; however, this assertion was also not substantiated by any documents in the contract files. To the contrary, documentation in the Boulware contract file suggests that Boulware's original proposal to perform similar services was initially rejected by the Authority because it contained the highest hourly rate among the five proposals received in response to another solicitation, according to Authority officials. In addition, there was nothing in the contract files that indicated that the other firms were not qualified or were less qualified to perform the required services.

It should also be noted that our review of the Authority's justification for the noncompetitive procurement to Boulware determined that, the contract files contained conflicting information. The Authority's April 24, 1998, justification for awarding a sole source contract to Boulware to provide search and recruitment services for six positions stated that the current contractor, PAR Group, working for the Authority in the area of executive recruitment, had been unable to deliver candidates within the desired time frame, which affected the CMO's office and other District agencies. The justification further stated that, as a result of PAR Group's poor performance, it was necessary to enter into a contract with a firm that had a track record for performance in the area of executive recruitment. However, also in the PAR Group contract files was another Authority justification dated the same day—April 24, 1998—for noncompetitive procurement of a proposed modification to expand the PAR Group's search and recruitment activities to include six additional positions. The justification stated that the PAR Group was doing an excellent job in a cost-effective and timely manner. Further, the justification said that, under these circumstances, it was considered unlikely that another contractor, unfamiliar with the proposed work, would perform the required tasks as cost effectively or in as timely a manner as the PAR Group had done. According to the Authority, the

conflicting dates on the memorandums were the result of a typographical error.

In reference to the two sole source justifications for the PAR Group and Boulware, the Authority commented that a comparison of the two justifications is initially confusing and said that the date of the Boulware sole source justification is incorrect and is a typographical error. We agree that the two sole source justifications are confusing and brought this to the Authority's attention on several occasions during our review. However, the Authority did not provide us with a definitive response until we received its written comments on the draft. We revised our report to reflect the Authority's comments.

Notwithstanding the Authority's explanation of the dates, our point is that the sole source justification for Boulware was based in part on the Authority's statement that the PAR Group was performing poorly. However, nothing in the PAR Group contract file showed that PAR Group was performing poorly as asserted in the sole source justification. Further, there is nothing in the contract file to support the former Executive Director's assertion that the Authority's Board had imposed very tight 30_ day schedules for filling certain positions. Additionally, the PAR Group contract did not contain any evidence of the cited 30_ day schedule for filling the positions.

In another contract, the Authority did not substantiate the award of sole source contracts to Managing Total Performance. On September 4, 1997, the Authority awarded a \$796,600 management reform contract to Managing Total Performance with a base term of 90 days. This contract also provided for an option and further provided that, if the option were exercised, the option term of the contract was from December 1, 1997, through December 1, 1998. Authority officials confirmed that this modification was not exercised by December 4, 1997, when the contract expired.

When a contract has expired, the contractual relationship that existed is terminated and that the issuance of a modification after the expiration date, in effect, would be the award of a new sole source contract.⁴ However, the Authority did not treat this award as a new sole source contract or justify it in writing, and there was no evidence of approval by the Authority's Chair in the contract file, as required by the Authority's regulations. Further, according to Authority officials, the District's CPO, who signed the modification that purported to exercise the option, was authorized to prepare the proposed modifications for the Authority.

However, Authority officials said that they did not intend for the District's CPO to execute modifications without the Authority's approval because the contract was an Authority contract.

In explaining this situation to us on June 17, 1999, Authority officials said that the Managing Total Performance contract was similar to several other management reform contracts awarded by the Authority. These contracts, they said, were intended to have two phases—development of proposed reforms and the implementation of proposals accepted by the Authority; however, events did not turn out entirely as planned. They said that phase I resulted in many more proposals than could be funded. Consequently, the Authority had to analyze them and decide which ones to approve. At the same time, Authority officials said that they were under a lot of pressure from Congress and others to move more quickly toward producing results. Accordingly, they asked the District's CPO to perform the administrative tasks necessary to modify the contracts to proceed with the implementation phase. However, while these actions were under way, Authority officials said the Managing Total Performance contract expired. Finally, Authority officials said that they did not realize that the District had not done or documented cost/price analysis or negotiations for modifications 1 through 14 of the Managing Total Performance contract.

In written comments on a draft of this report, the Authority questioned our conclusion that it failed to "substantiate the award of sole source contracts to Managing Total Performance." As recognized by the Authority, this conclusion was based on our view that the initial Managing Total Performance contract, awarded on September 4, 1997, with an option clause, had expired before the option was exercised. We concluded that since the contract had expired, the issuance of a modification exercising the option after expiration, was in effect the award of a new sole source contract that should have been justified in writing and approved by the Authority's Chair. The Authority stated that it does not interpret the Managing Total Performance contract as having expired. It further stated that for a variety of reasons, the Authority and Managing Total Performance "understood and agreed" that the contract would remain in effect beyond the stated term in order to allow for the future exercise of options for implementation work. The Authority further stated that it, not GAO, is "the most appropriate interpreter" of

what its contracts provide and noted, as we did in the report, that the Authority is exempt from District and federal procurement law.

We do not agree with the Authority's position. The Authority suggests, without actually stating so, that the Authority and Managing Total Performance had an oral agreement to extend the contract beyond its stated term. However, we found no evidence or documentation in the contract file to suggest when the Authority and Managing Total Performance might have reached this agreement to extend the contract or to show that such an understanding and agreement existed. The letter from the Executive Director to the District's CPO, dated months after the contract had expired, authorizing him to process modifications for the Managing Total Performance contract and the subsequently issued modifications contain no reference to a prior extension of the contract by oral agreement. In essence, the Authority has asked us to accept that the contract had been extended, not based on any additional documentation, but rather on its current explanations of its past intentions.

The Comptroller General decision we refer to in the report is cited for the proposition that, as a matter of general contract law, not federal or District procurement law, the attempt to exercise an option on an expired contract can only be viewed as the execution of a new contract. When a contract expires, an unexercised option provision that was part of the contract would expire as well. The Authority's view—that, despite the lack of evidence in the contract file, we should not question its statement that the contract was extended—highlights the problems caused by the Authority's failure to document key contract actions. If these actions are not documented, there is no way for the Authority, or any organization reviewing its actions, to know whether it followed its own regulations and the provisions of its own contracts. Also, the lack of adequate documentation makes it difficult to hold the Authority or its employees accountable for their actions.

Inadequate Documentation of Contract Negotiations Cost/Price Analysis, or Independent Cost Estimates

Of the nine contracts we assessed, the Authority's former Executive Director said it conducted contract negotiations for 2 of the 3 contracts awarded under the formal contracting procedures which require the documentation of negotiations whenever they occur. However, there was no documentation of negotiations in the contract files for the contracts

awarded to Management Partners and the Urban Center for \$513,000 and \$562,800, respectively. Based on the Authority's regulations, these 2 contracts should have been awarded using the formal contracting procedures because they were for \$500,000 or more.

In another case, the Authority executed 14 modifications totaling \$10.6 million to an expired contract with Managing Total Performance, which, in effect, constituted a sole source award. Since the Authority erroneously viewed these actions as modifications to an existing contract, the contract files contained no documentation of negotiations, cost/price analysis, or other steps that may have been taken to determine best value or least cost or would be required for the award of a new contract. While the Authority's regulations state that the Authority is to provide goods and services at the least cost or representing the best value for the Authority, the regulations do not specify how to accomplish these objectives when it executes contract modifications.

In addition, although the regulations do not require negotiations or documentation of negotiations whenever they occur for contracts under \$100,000, the former Executive Director said that the Authority conducted negotiations with qualified offerors for four of the remaining six contracts we assessed. However, evidence in the contract files indicated that negotiations occurred for only one of the four contracts for which the Authority said it conducted negotiations. This was a contract with Boulware for which a contract approval form stated that the Authority's Chief Financial Officer negotiated down Boulware's proposed rates and terms of the contract to the extent possible. However, the contract files did not contain a record of the negotiation process, and the contractor told us that negotiations did not take place and that the Authority's Chief Financial Officer dictated the price.

In its comments, the Authority said that it believes that the dictation of a maximum price is included in the definition of negotiations. While we agree, our purpose was to describe the nature of the negotiation and to point out that the documentation in the contract file did not describe the nature of the negotiation that took place or the Authority's rationale for arriving at the dictated price. Nonetheless, we recognize that the contractor could have said that the price was too low and then attempted to negotiate or simply declined the contract.

While the Authority's regulations do not require independent cost estimates for all of its contracts, the regulations do authorize the Authority to develop its own cost/price estimate to help assess the

reasonableness of contractor proposals. For example, the regulations state that, when fair and adequate price competition is obtained, a comparison among proposed prices and to the Authority's estimates is generally adequate to verify that the prices offered are reasonable. The contract files for two of the three contracts we assessed where the former Executive Director said price comparisons were performed did not contain documentation of these comparisons to show how the Authority determined price/cost reasonableness. DSIC also reported that contract negotiations were generally not documented for several of the contracts it reviewed and that cost/price analyses were frequently not documented.

DSIC also found little evidence that the Authority prepared or used independent cost estimates for several contracts and pointed out that the number of hours proposed by some offerors, within the competitive range, differed by as much as 50 percent. According to DSIC, the absence of an independent cost estimate makes it difficult to reconcile differences of such magnitude. DSIC recommended that the Authority develop independent cost estimates of the hours needed to perform required services to use as a basis for evaluating technical proposals and costs.

In his May 21, 1999, letter, the Authority's former Executive Director said that the Authority's staff obtained and evaluated cost and pricing information and that, after negotiations by the staff, he determined that the prices were fair and reasonable for 9 of the 10 contracts we reviewed. However, he did not provide any additional documentation or other evidence of actual negotiations or cost/price evaluations.

In commenting on a draft of this report, the Authority said that contract negotiations, a cost/price analysis, or an independent cost estimate are not mandatory for all of the contracts we assessed. Although we did not say that these were mandatory for all the contracts we assessed, we further clarified our report in this regard. However, our point continues to be that we did not see any documentation of negotiations the Authority said occurred. We believe that contract negotiations, cost/price analyses, and an independent cost estimate are important tools for ensuring best value and fair and reasonable prices and thus represent good contracting practices.

The Authority also commented that the provision for cost/price analysis in its regulations does not require that cost/price analysis be

documented in the contract file. In addition, the Authority said that most of its contracts reviewed by GAO are competitive and that documentation for the cost/price analysis is contained in the cost proposal submitted by offerors. We agree that the Authority's regulations do not specifically require that the cost/price analysis be documented in the contract file, and our report does not state that it is a requirement. We also agree with the comment regarding competitive contracts; however, we question the Authority's assertion that an offeror's price proposal constitutes a cost/price analysis by the Authority.

**DISTRICT'S CPO DID NOT COMPLY WITH AUTHORITY OR
DISTRICT PROCUREMENT REGULATIONS**

The District's CPO did not comply with the Authority's or the District's procurement regulations when he entered into an emergency sole source contract totaling \$153,800 and when he awarded a subsequent contract for \$893,000 as an emergency sole source contract without justifying the emergency procurement or obtaining approval from the Authority. Both of these contracts were to Smart Management Services to provide management reform services to the Authority's former CMO.

Concerning the first contract, according to the District's CPO, in February 1998, he received an oral procurement request from the Authority's former CMO to obtain consulting services to assist her with reconciling the District's fiscal year 1998 budget and management reform anomalies. According to the District's CPO, the former CMO provided him with the names of five or six firms that she considered qualified to perform the tasks and said that she needed a firm that could start to work immediately. The District's CPO said that he phoned the firms on the list and that only one firm Smart Management Services was available to start to work immediately. However, he did not maintain a record of his telephone conversations with the firms. He said that a list of the firms was not retained because the initial contract was processed as a sole source procurement. Shortly thereafter, the District's CPO entered into an emergency sole source contract totaling \$153,800 with Smart Management Services without either justifying how the procurement met the terms of an emergency procurement, as the District's procurement regulations require, or obtaining the Authority's approval. The Authority's review and approval regulations for District contracts require

that all sole source contracts and modifications issued under the direction of the District's CPO be submitted to the Authority for review and approval prior to award. In addition, the District's CPO did not comply with District procurement regulations when he modified the purchase order agreement three times to increase the scope of services and costs. The District's procurement regulations state that contracts done on an emergency basis are not to be modified to expand the scope or extend the time of the procurement unless a limited number of additional services are needed to satisfy an ongoing emergency requirement.

The contract file for the second contract, which was also awarded to Smart Management Services 4 months after the first emergency sole source contract, did not contain evidence that the District's CPO justified how the procurement met the terms of an emergency procurement as the regulations require or submitted the \$893,000 emergency sole source contract to the Authority for review and approval. The contract required Smart Management Services to provide consultant services to the Authority's former CMO for a 1_year period. The Authority's review and approval regulations for District contracts specifically require that sole source contracts and contracts for consultant services issued by or under the direction of the CPO be submitted to the Authority for review prior to award. The District's regulations define an emergency procurement as one responding to a situation, such as a flood, epidemic, riot, or other reason set forth in a proclamation by the Mayor, that creates an immediate threat to the public, health, welfare, or safety of its citizens. Moreover, under the District's procurement regulations, an emergency procurement is limited to not more than 120 days, and the contracting officer is required to initiate a separate nonemergency procurement if a long_term requirement for services is anticipated.

In comments on a draft of this report, the District's CPO said that the draft report incorrectly links the term "emergency" to the regulatory context of fire, flood, or endangerment to public health when no such context was cited or intended and said that the justification was clearly stated in writing. We disagree and believe that the District's procurement regulations, which were used by the District's CPO as the basis for justifying the emergency sole source contract, are specific on what constitutes an "emergency" procurement as stated in our report. In addition, our draft report states that the written justification did not

explain how the procurement met the terms of an emergency procurement as required by the District's regulations.

According to the District's CPO, he was advised by his General Counsel, after consulting with the Authority's Deputy General Counsel and Chief Financial Officer, that the contract did not have to be submitted to the Authority for approval because the contract, which obligated approximately \$330,000 during fiscal year 1998, was less than the \$500,000 threshold specified in the Authority's February 26, 1998, resolution, which requires District contracts in excess of \$500,000 to be submitted for review and approval. We believe that, based on Section 4.1.E of the Authority's review and approval regulations governing District contracts, the District's CPO was required to submit this contract to the Authority for its review and approval. Section 4.1.E states that all proposed sole source contracts awarded by the CPO must be submitted to the Authority prior to award.

In commenting on our finding that the Smart Management Services contract for \$893,000 should have been submitted to the Authority for review and approval, the District's CPO commented that the value of the contract was less than the \$500,000 approval threshold prevailing at the time and therefore did not require Authority review and approval. This is not consistent with our understanding of the regulations or the value of the contract. As our report states, our basis for concluding that the District's CPO was required to submit this sole source contract to the Authority for review and approval is Section 4.1.E of the Authority's review and approval regulations for District contracts.

In August 1998, the Authority terminated this contract because it believed that the contract contained several deficiencies. In particular, the Authority stated that the contract was awarded on a sole source basis and that under federal statutes and Authority resolutions, the Authority should have approved it. The Authority also said that it appears that the principal consultant who performed the main task under the contract was designated as a Deputy Management Officer reporting directly to the CMO and spent most of her time in a staff function. Thus, the Authority concluded that the compensation terms for the principal consultant and the two additional senior consultants were in excess of the levels that could be paid and justified for even the most senior positions in the District government.

This same contract was also the source of an investigation by the District's Office of Inspector General at the request of the Authority. The Inspector General issued a report on the results of the investigation and concluded that the District's CPO was required to submit the \$893,000 emergency sole source contract to the Authority for approval, but failed to do so, and also improperly awarded the contract as an emergency procurement. With regard to the submission of the contract to the Authority for review and approval, the Inspector General considered the Authority's February 26, 1998, resolution to be clear on what type of contracts are required to be submitted to the Authority for review and approval, and we agree.

Further, the Inspector General said that the District's procurement regulations have their own very strict definition of an emergency. For example, an emergency includes such conditions as a flood, epidemic, riot, or other reason set forth in a proclamation by the Mayor. As such, the Inspector General concluded that the CPO acted outside the scope of the District's procurement regulations when he awarded the \$893,000 contract as an emergency sole source contract because the situation did not constitute an emergency as prescribed in the regulations. However, because the Authority subsequently terminated the contract in August 1998, the Inspector General did not recommend any further action and deferred the issue to the Mayor for final disposition.

WEAKNESSES IN THE AUTHORITY'S CONTRACT ADMINISTRATION

Contract administration constitutes an integral part of the procurement process that ensures that the government gets what it paid for. It involves those activities that are performed after a contract has been awarded to determine how well the contractor performed with regard to meeting the requirements of the contract. The Authority's procurement regulations do not contain detailed provisions on contract administration. The regulations state that the Authority plans to monitor contractor performance and certify satisfactory performance prior to payment of any contractor invoice.

We saw little or no evidence of how the Authority monitored or certified satisfactory contractor performance for the nine contracts we assessed. According to Authority officials, they relied on the contractor's work statements to monitor the contractor's performance. However, we found that the statements of work for these nine contracts generally did

not contain thorough descriptions of the required services, expected results, and standards for measuring the contractor's performance and effectiveness as required by the Authority's procurement regulations. For example, we found that three separate firms had contracts with the same statements of work that required them to "develop and execute strategies for implementing existing management reform and improvement projects and work with, and within agencies to develop an overall operational improvement strategy." Additionally, the work statements for these three contracts did not have standards for measuring the contractor's performance as required by the Authority's regulations. The development of statements of work is important because they provide a basis for monitoring the contractor's performance to ensure that the contractor has performed satisfactorily and delivered the required goods and services before payment of invoices.

Equally important, for the nine Authority contracts we assessed, the Authority contracted and paid for goods and services totaling \$13 million; yet, there was no evidence in the contract files that it received the required deliverables for three of the nine contracts. The Authority's contract files contained evidence indicating that it received the required deliverables for four contracts. For two of the five contracts where there was no evidence in the contract files, we relied on the documentation maintained by two of the three contractors we visited to determine whether the contractor provided the required deliverables. Those two contractors provided us with copies of their required deliverables that indicated that they met the terms of their contracts. Although the contract files for the other three contracts contained invoices, there was no evidence that they were always reviewed and approved and did not contain statements that the contractor's performance was satisfactory, thus making it difficult to determine whether the deliverables were received for these three contracts.

In commenting on a draft of our report, the Authority said that our finding that it lacked a system for contract administration is incorrect and that it has a definitive system that is understood by its staff. While the Authority acknowledges, as our report states, that its procurement regulations contain few provisions concerning contract administration, it did not provide any evidence to support its statement that it has a definitive contract administration system that is understood by its procurement staff. The Authority further states that under its system, staff are expected to keep the Executive Director and contracting staff informed of any changes, significant problems, and the general status of

contract work. This system was not documented in the contract files. To the contrary, we found that, with respect to the Boulware contract, Authority staff entered into a verbal agreement without the Authority's knowledge.

In reference to our statement that we found little evidence of how the Authority monitored or certified satisfactory contractor performance for the nine contracts we assessed, the Authority commented that it has always interpreted the requirement for certification of satisfactory performance in its regulations to mean approval by cognizant Authority personnel of contractor invoices submitted for payment. The Authority also said that all contractor invoices must be reviewed and approved by the cognizant staff member. We agree that contractors' invoices should be reviewed and approved by appropriate Authority staff prior to payment. However, we also believe that the signing of an invoice authorizing payment does not constitute certification of satisfactory performance as described by the Authority's regulations.

In addition, we noted that there were several invoices stamped paid with no apparent signature authorizing payment. For example, the Authority payment records provided to us for the Urban Center contract included copies of five checks and invoices paid to the contractor totaling \$514,325. For two of the five payment records, where the invoices totaled \$140,350, there was no indication on the invoices that they had been reviewed or approved. Two other checks, totaling \$250,075, had no invoices to support the amount of or purpose for the payment. We noted that the file contained a document stating that the contract was terminated due to "possible fraudulent invoices." This document was dated subsequent to the paid dates of the checks and invoices cited above. In another example, the contract file contained a payment record of an invoice for the Gaebler Group in the amount of \$18,073. We noted, however, that the invoice contained in the contract file was not annotated to show that the Authority reviewed the invoice and there was no signature approving it for payment.

The Authority also disagreed with our finding that the statements of work for the nine contracts we assessed did not contain thorough descriptions of the required service, expected results, and standards for measuring the contractor's performance and effectiveness. As our report clearly states, the Authority's regulations require that statements of work contain thorough descriptions of the required services, expected results,

and standards for measuring the contractor's performance and effectiveness. The statements of work for the nine contracts we assessed did not contain such information. The Authority further commented that with regard to the former CMO contracts, performance type statements of work were not feasible and that the management task force contracts, in essence, provided a group of personnel with municipal management experience to act as the newly appointed staff of the former CMO. We believe that the situation the Authority described is similar to a personnel situation and do not believe that performance expectations would have been unreasonable.

The Authority commented that, contrary to the statement in the draft report that invoices in the contract files for the Gaebler Group, Management Partners, and the Urban Center were not always reviewed and approved, no invoice was ever paid without approval. We do not state that invoices were paid without approval. We state that there was no evidence in the contract files that invoices provided by the Authority were always reviewed and approved. We did, as previously pointed out, find instances of invoices stamped paid without annotation of approval or written certification of satisfactory contractor performance.

Finally, in reference to our statement that there was no evidence in the contract files that the Authority received the required deliverables for three of the nine contracts we assessed, the Authority commented that it has never been the Authority's practice to require that copies of deliverables and invoices be kept in the contract files. We do not state that copies of deliverables should be maintained in the contract files. However, we believe that a document in the file certifying that the contractor met the terms of the contract and provided the required deliverables is a good procurement practice. The Authority further stated that most of its contracts provide that payment be made after satisfactory delivery of specified deliverables and that it has never made such a payment without receipt of satisfactory work. Our report does not state that the Authority made payments without receipt of satisfactory work. We state that, based on our review of the contract files, there was no evidence in three of the nine contract files we assessed that the Authority received the required deliverables and that we were able to find evidence indicating that the Authority received the deliverables for the other six contracts.

EVIDENCE THAT THE DISTRICT'S CPO MONITORED CONTRACTOR'S PERFORMANCE WAS NOT AVAILABLE

We found no documentation in the contract files that the District's CPO monitored the contractor's performance or received required deliverables for the two contracts that he awarded. The District's procurement regulations state that it is the responsibility of the contracting officer to ensure that the contractor performs in accordance with the terms of the contract before payment of any contractor invoice. In addition, as stated previously, the Authority transferred the Managing Total Performance contract to the District's CPO for administration. District officials told us that they have an individual who is responsible for monitoring the contractor's performance to ensure that the terms of the contract are met before payment of invoices. However, there was no evidence in the contract file to substantiate this assertion.

In commenting on a draft of this report, the District's CPO said that the draft report incorrectly states that contract administration was the responsibility of the District's Office of Contracting and Procurement. As our report states, according to the District's procurement regulations, it is the responsibility of the contracting officer to ensure that the contractor performs in accordance with the terms of the contract before payment of any contractor invoice.

FACTORS CONTRIBUTING TO PROCUREMENT PROBLEMS

Several factors appear to have contributed to the Authority's contracting problems. The Authority's former Executive Director attributes the contracting problems to the short period in which the Authority had to carry out its "massive and formidable" tasks. We do not believe that the existence of statutory timeframes should exempt the Authority from fully complying with its procurement regulations.

In its January 1999 report, DSIC, which reviewed over 100 Authority contracts awarded between August 1995 and September 1998, said that the Authority generally followed its streamlined procurement regulations. However, DSIC also identified some of the same problems we did. DSIC attributes the Authority's contracting problems, in part, to the Authority's emphasis on achieving its programmatic mission in a short time period and its lack of procurement expertise. DSIC also identified such problems as no independent cost estimates, no documentation of actual analysis of the Authority's declaration of fair and reasonable price for modifications and sole source contracts,

inadequate training for contracting staff, and lack of documentation in the contract files.

In its written comments on a draft of this report, the Authority points out that DSIC, the consultant firm retained by the Authority, concluded in its report that the Authority generally followed its procurement regulations. We acknowledge this in our report. However, we believe that it is equally important to point out that, although DSIC's report contained many examples of the problems it found with the Authority's procurement practices, the report did not explain the basis for the statement that the Authority generally followed its streamlined procurement for all the contracts reviewed. The report was unclear as to whether this conclusion applied to all of the 109 contracts or some portion of the contracts. In addition, DSIC officials were not able to provide any documentation to support this statement.

DSIC made several recommendations to the Authority to address the problems it identified and said in its January 1999 report that the Authority had begun to act on them. In a January 13, 1999, letter to DSIC, the Authority stated that it:

- S would begin developing cost estimates of the hours needed to perform required services,
- S had assigned a procurement specialist to maintain its contractor files and use a standardized contract file folder and checklist to maintain accountability,
- S had established an informal 3 week minimum response time for all its solicitations to encourage competition resulting in lower costs, and
- S would continue to make resources available to incorporate education and training for all staff involved in its contracting activities.

We believe that, if effectively implemented, the actions the Authority says it has taken and plans to take should help correct some of the problems that both DSIC and we identified.

In addition, we believe other factors that were not addressed by DSIC's recommendations may have contributed to the failure of Authority staff to follow the procurement regulations. First, while the Authority's Executive Director delegated contracting responsibilities to various members of the Authority's staff, he had not fully defined areas of responsibility and accountability among the contracting staff. For example, while the Authority's former Executive Director signed the

contracts as the Contracting Officer, it was not always apparent who was responsible for ensuring that key contract award and administration decisions were documented and maintained in the contract files.

In its comments on a draft of our report, the Authority disagreed with our statement that its Executive Director had not fully defined the areas of responsibility and accountability among the contracting staff and that it was not always apparent who was responsible for ensuring that key contract award and administration decisions were documented and maintained in the contract files. The Authority said that members of its professional staff have always been fully aware of their contracting responsibilities. Our report points out that there was no documentation in the contract files to show who was responsible for contract administration, and the Authority did not provide any additional information with its written comments.

Second, the Authority had not provided its contracting staff with guidance on how to implement its procurement regulations to ensure compliance. For example, the Authority's regulations state that they are intended to permit the Authority to award contracts based on least cost or best value, and require that statements of work contain performance standards, contractors' performance be monitored, and certification be provided that the contractor performed satisfactorily. However, the Authority had not issued guidance to its contracting staff on how these requirements are to be implemented to comply with the procurement regulations. Equally important, the Authority had not provided its contracting staff with guidance for awarding and administering those procurement actions not specifically covered by its regulations, such as contracts over \$100,000 and below \$500,000, or for executing contract modifications, or contract options.

In its comments on a draft of this report, the Authority disagreed with our statement that it had not provided its contracting staff with guidance on how to implement its procurement regulations. Our report states that we found no written guidance on how the Authority's staff was to implement its procurement regulations. In addition, when we asked the Authority for supporting documentation, none was provided. DSIC also found this to be a problem and recommended that the Authority improve its procurement process by providing standardized procedures on how to implement its procurement regulations.

Finally, the lack of specific requirements in the Authority's procurement regulations for all of its contracting activities appeared to have contributed to the problems that we found with the Authority's

procurement practices. For example, the regulations do not specify the procedures that should be followed for awarding contracts between \$100,000 and \$500,000, and for executing contract modifications and contract options. In addition, there was no evidence in the contract files we reviewed that the Executive Director determined the type of procurement method that is simplified or formal that should be applied to the contracting situations stated above.

Regarding the two contracts awarded by the District's CPO without the Authority's approval, we did not determine whether the Authority had an adequate mechanism for ensuring that these contracts are submitted to the Authority for review and approval prior to award.

CONCLUSIONS

The Authority was established essentially to repair the District's failing financial condition and to improve the effectiveness of its various entities. We recognize that, as the Authority has pointed out, it was a newly established organization and was expected to accomplish the majority of its tasks in a relatively short period of time, and thus had to award many contracts quickly. However, we believe that it was also important for the Authority to lead by example by better adhering to its own regulations, ensuring accountability and integrity, and by not following the same type of practices that it was established to correct in the District.

We also recognize that any new organization is bound to experience start-up difficulties and take some time to operate effectively. However, the majority of the Authority's contract actions that we reviewed were awarded almost 3 years after the Authority was established. We believe that this was a sufficient amount of time after establishment to expect an effective procurement operation that follows its own requirements and provides assurance that the objectives of its requirements are met.

The actions that the Authority says it has taken or plans to take based on DSIC's report, if effectively implemented, should help correct some of the problems both DSIC and we identified. However, we do not believe that these actions are likely to fully resolve the problems we found. They do not fully address findings that the Authority did not fully define the roles and responsibilities of its procurement staff or provide guidance to its staff on how to (1) determine best value; (2) develop performance standards for work statements; (3) monitor contractors' performance and certify satisfactory performance; (4) document its basis for contractor

selection and justification for sole source awards; and (5) provide its contracting staff with guidance for awarding and administering those procurement actions not specifically covered by its regulations, such as contracts between \$100,000 and \$500,000, and for executing contract modifications, or contract options.

Perhaps even more importantly, we do not believe that the Executive Director's position on waiver of the Authority's regulations, certifying satisfactory performance, or extending and modifying an expired contract reflect sound contracting principles. We believe that in accordance with good procurement practices

S any waivers by the Executive Director of the Authority's contract regulations should be justified and in writing;

S the basis for contract award should be documented, particularly when the selected source is different from the source recommended by the technical evaluation panel;

S contract files should contain a written certification, signed by an appropriate official, stating that the contractor's performance was or was not satisfactory; and

S all contract extensions should be in writing and cannot be modified or extended.

We did not determine whether the Authority had processes or controls to ensure that its review and approval regulations governing the submission of District contracts were being followed. However, it was apparent that the two contracts we reviewed that were awarded by the District's CPO were awarded without being reviewed and approved by the Authority as required by the Authority's regulations governing District contracts.

RECOMMENDATIONS TO THE CHAIR OF THE AUTHORITY

To improve its contracting operations, we recommend that the Chair of the Authority

S require the Executive Director to (1) approve and justify all waivers of Authority contracting regulations in writing, (2) only extend contracts in writing and prohibit the Executive Director from extending or modifying expired contracts, and (3) include in contract

files a written certification, signed by an appropriate official, stating that the contractor's performance was or was not satisfactory;

S direct the Executive Director to (1) fully define the roles and responsibilities of the Authority's procurement staff; (2) prepare a written plan for contracting that includes methods for ensuring compliance with the procurement regulations; (3) provide guidance to the procurement staff on areas, such as determining best value, developing performance standards for work statements, monitoring and certifying contractors' performance, preparing written justifications for sole source awards, documenting the basis for contract selection, awarding contracts that are between \$100,000 and \$500,000, and executing contract modifications, or contract options;

S hold the Executive Director and other procurement staff accountable for ensuring that they follow the Authority's procurement regulations; and * require the Executive Director to assess whether the Authority's processes and controls for the review and approval of District contracts prior to award are effective and, if not, make appropriate changes.

AUTHORITY'S AND DISTRICT CPO'S COMMENTS AND OUR EVALUATION

On July 21, 1999, the Authority's Executive Director provided written comments on a draft of this report. Although the Authority said it would seriously consider our proposed recommendations and recognized that its procurement practices have not been perfect, it expressed concern and disagreement with portions of the draft that pertained to the contracts it awarded. The Authority did not provide any additional documentation with its written comments.

The Authority said that the 10 contracts we reviewed were not a representative sample and that 5 in particular were not typical of Authority contracts in general. Our report does not suggest that the contracts we reviewed were selected randomly. To the contrary, our report describes in detail how we selected the contracts we reviewed, and discusses the circumstances surrounding the award of the five contracts awarded on the behalf of the CMO that the Authority says are not representative of how it carries out its contracting function. Our report states that DSIC, the Authority's contractor, did identify some of the same problems we did but we do not state that these problems are representative of all Authority contracts.

The Authority also commented that the draft report assumed that its regulations applied to all 10 of its contracts we reviewed. Our report does not state that the Authority's regulations for formal contracting apply to all nine of the Authority's contracts we assessed for compliance. However, we agree that our report was not as clear as it could have been in this regard and clarified our report to the extent we could, given that the Authority had not specified what requirements applied to contracts between \$100,000 and \$500,000 or for contract modifications or options.

Finally, the Authority disagreed with several of our interpretations and application of its regulations, and believes that its procurement regulations and how the Authority interprets or implements them are generally adequate and appropriate in light of its situation. We continue to believe that our interpretation and application of Authority regulations are generally appropriate and that the manner in which the Authority has applied its regulations and has conducted its contracting activities in some instances is not consistent with sound contracting principles or practices. In particular, we believe that the Authority's views regarding waivers of its regulations, certification of satisfactory contractor performance, and the extension and modification of expired contracts may prevent the Authority from meeting its contracting objectives and does not provide adequate internal controls to prevent abuses from occurring. Another problem is the lack of clarity as to what requirements apply to contracts between \$100,000 and \$500,000.

The Authority's comments on issues that it disagrees with us on and our assessment of the Authority's comments are discussed as appropriate in the body of the report. We also made specific technical changes to clarify our report based on suggestions by the Authority. Finally, we have made additional recommendations to the Authority to address our concerns in certain areas. On July 12, 1999, the District's CPO provided comments on a draft of this report. He disagreed with our findings with respect to the contracts he awarded. We believe that our findings are well documented and are correct. His specific comments and our responses are discussed in the appropriate sections of our report.

NOTES

1. The regulations do not state whether the waiver has to be in writing. According to the former Executive Director, the provisions in the procurement regulations have never been waived.
2. According to the Authority, one of its two Contract Specialists was an independent contractor.

3. In May 1999, the Authority's original Executive Director resigned. He was hired as the Executive Director in June 1995. The Authority has since appointed another Executive Director.
4. 65 Comp. Gen. 25 (1985); 85_2 C.P.D. § 435.

REFERENCES

Digital Systems International Corporation. (1999, January). Report of the Audit of the District of Columbia Financial Responsibility and Management Assistance Authority Contracts. Washington, DC: Author.

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APPENDIX 1

Summary of Contract Terms for 12 Contracts Included in our Review

Contract ^a	Contract Date	Action	Type	Purpose	Dollar Amount	Contract Status*
Boulware						
98-C-018	9/1/98	SSA	FF	Executive recruitment service	\$105,000	In progress
PAR Group						
98-C-007	3/9/98	CA	FP	Executive recruitment service	38,500	Closed
Mod. 1	4/98		FP	Executive recruitment service	75,000	Closed
Managing Total Performance						
97-C-031D ^b	9/4/97	CA	FFLH	Management reform	796,600	Closed
Mod.1-14 and 9/10/98	7/8/98	SSA	FP	Management reform	10,600,000	In progress
The Gaebler Group						
98-C-003C	3/24/98	CA	FUPLH	Establish a management task force	94,500	Closed

APPENDIX 1 (Continued)

Contract ^a	Contract Date	Action	Type	Purpose	Dollar Amount	Contract Status*
Management Partners						
98-C-003B	3/24/98	CA	FUPLH	Establish a management task force	517,000	Closed
The Urban Center						
98-C-003A	3/24/98	CA	FUPLH	Establish a management task force	562,800	Terminated
Thompson, Cobb, Bazilio and Associates						
FY96/FRA #2	10/18/95	CA	FP	Audit FY 95 financial statement	23,392	Closed
FY96/FRA #2	1/3/97	Option 1	FP	Audit FY 96 financial statement	23,392	Closed
FY97/FRA #2	3/3/97	Option 2	FP	Audit FY 96 financial statement (Internal control)	5,000	Closed
97-C-047	12/1/97	Option 3	FP	Audit FY 97 financial statement	35,000	Closed
Thompson, Cobb, Bazilio and Associates						
98-C-001	3/4/98	CA	FUPLH	Audit DCPS enrollment	97,500	Closed
Thompson, Cobb, Bazilio and Associates						
98-C-008	4/20/98	SSA	FP	Prepare financial/accounting manual	20,900	Closed
Thompson, Cobb, Bazilio and Associates						
98-C-010	8/20/98	CA	FF	Audit FY 96 financial statement	34,818	In progress
Small Management Services						
8052-AA-NS-4-JW	2/27/98	SSA	LHR	Consultant services	153,800	Closed
Small Management Services						
8112-AA-NS-JW	6/15/98	SSA	FFP	Consultant services	893,416	Closed

Legends: SSA = Sole Source Award; CA = Competitive Award; FF = Fixed Fee; FFLH = Fixed Fee/Labor Hour; FP = Fixed Price; FFP = Firm Fixed Price; FUPLH = Fixed Unit Price/Labor Hour; LHR = Labor hour rate.

* = as of 8/99.

^a With the exception of the 2 Smart Management Services contracts, which were awarded by the District's CPO, the Authority awarded the other 10 contracts.

^b This contract expired on December 4, 1997, because the Authority did not exercise its option. In addition, between July 8, 1998, and September 10, 1998, the District CPO, on behalf of the Authority, modified the expired contract 14 times, thus, in effect, awarding new sole source contracts. The modifications ranged in price from \$39,460 to \$5,250,000.

Source: Authority procurement files.

APPENDIX 2
Review of Thompson, Cobb, Bazilio and Associates Contract
(FY96/FRA#2)

As previously stated, 1 of the 10 contracts we reviewed was awarded before the Authority's regulations were adopted in March 1996. However, the Authority did not provide us with any information on what regulations, if any, it used to award this contract. This contract was awarded to Thompson, Cobb, Bazilio and Associates on October 18, 1995, for \$23,392. Thompson, Cobb, Bazilio and Associates was contracted to audit the Authority's financial statements. The contract provided for a base period and the option to renew the contract for two additional years. During our review of the Thompson, Cobb, Bazilio and Associates contract, we found that the basis for contractor selection was not documented in the contract file, nor was there a copy of the request for proposal.

In response to our request for documentation on its basis for selecting Thompson, Cobb, Bazilio and Associates, the Authority stated that this contract was an open market solicitation, meaning that only those firms that requested it were mailed a copy of the solicitation. In response to our follow_up request, the Authority stated that Thompson, Cobb, Bazilio and Associates submitted the only proposal received in response to the advertised solicitation. The Authority also said that the Executive Director's decision to award this contract was based on the firm's technical and cost proposals, the recommendations of members of his staff who handled the procurement, and his personal knowledge and experience with the firm.

The Authority also exercised three options over the 2_year term of this contract. Although the base contract required the Authority to negotiate the terms and conditions of these options, the contract file did not contain documentation that the Authority negotiated the terms and conditions for two of the options exercised. In addition, the file did not show that the Authority prepared a contract modification to exercise these two options. A confirmation letter from the contractor was the only evidence in the contract file that the Authority exercised the first two contract options. However, for option 3, the contract file contained a follow_on contract signed by the Authority that included the terms and conditions for this option as required by the base contract.

Although we did not find evidence that the Authority monitored or certified that the contractor performed satisfactorily, we noted that the

contract file contained evidence that the Authority received the required deliverables for the base contract and the three options.