

CONGRESS AND COMPETITION

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April 1977

The Rand Paper Series

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ABSTRACT

This paper examines the prospect of promoting greater competition in the acquisition of major weapons systems from the perspective of the Congress. Congressional support for the use of competition derives from its promise of both direct and indirect benefits. The primary direct benefits are lower prices and greater technological achievement. An additional perceived benefit stems from the view that competition insures fairness. Factors militating *against* support for greater competition include increasing interest in interservice commonality, inherent antipathy toward efforts involving significant near-term expenditures, the evolution of defense spending into an important tool of social and economic policy, and the relationships of the Congress to the defense industry and the military. The paper concludes Congress would not favor rigid price competition that would close off distributional (non-price and non-performance) considerations. And, moreover, a hard-sell of the cost benefits of any advanced competitive acquisition strategy will miss its mark if (1) the strategy clearly reduces congressional flexibility, or (2) it is not supplemented by appeals to considerations other than cost savings. (Presented at the Joint National Meeting of The Institute of Management Sciences and the Operations Research Society of America (TIMS/ORSA), 9-11 May 1977, San Francisco.)

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by

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INTRODUCTION

The subject of my discussion is congressional attitudes toward contractor competition for major weapon system contract awards. That is quite a mouthful for an opening sentence; it calls for some elaboration.

Why Study Competition?

There are a couple of reasons to be thinking about competition. For one thing, according to the ASPR, contractor competition is the official policy--it is the rule rather than the exception. In addition, virtually all pronouncements on the subject are approving: it is widely believed that one way to control prices is to increase competition.

Often, "to increase competition" refers to a qualitative change of one of two varieties. One way to accomplish it is to extend design competition through later phases of the development process. This calls for delaying the source selection decision, thereby funding two or more contractors for an extended period. A more ambitious change would introduce price competition into major systems acquisition by introducing a new round of competition for production of a design

* Presented at the Joint National Meeting of The Institute of Management Sciences and the Operations Research Society of America (TIMS/ORSA), 9-11 May 1977, San Francisco. This paper is based on the author's report, *Competition in the Acquisition of Major Weapon Systems: Legislative Perspectives*, R-2058-PR, The Rand Corporation, Santa Monica, California, November 1976.

chosen in a prior design competition. This approach calls for government purchase of the data rights in the competing designs so that by way of directed licensing it can have the winning design produced by the winner of the second round of bidding.¹

This discussion centers on the prospects for congressional support for advanced competitive acquisition strategies like these.

Why Study Congress?

For too long students of the systems acquisition process have focused somewhat narrowly on the technological and economic aspects of policy issues. Yet the influence of institutional and organizational factors and pressures on policy formation and success is usually very great. As one of many actors in the process, the Congress has assumed an increasingly active, informed, pervasive, and at times perverse role in the source selection decisions and debates on procurement policy issues. In light of this trend and the fact that most strategies designed to improve weapons acquisition involve fundamental policy changes, examination from the congressional perspective can enhance evaluation of new proposals.

POSITIVE CONSIDERATIONS

Congressional support for the use of competition derives from its promise of both direct and indirect benefits.

Perceived Direct Benefits

In theory, the major direct benefits of competition for contract awards are lower prices and greater technological achievement, i.e., a better product. Most congressmen seem to appreciate that different varieties of competition promise to yield these benefits in varying degrees. A more interesting question involves the benefits assumed to inhere in particular acquisition strategies. For example, there is a distinct preference for prototype competition over paper competition.

One of the reasons for considering introduction of price competition through a second round of bidding is the feeling that the present practice of choosing a single source well in advance of production yields sufficient technological gains but has little influence on production costs. Of particular interest along these lines is the evidence of belief within Congress of a "carry-over" effect. It is widely believed that if the source selection date is delayed long enough, so that the configuration of the system is substantially established under "competitive pressures," the benefits of the *rivalry* in the design phase (in the form of better performance) *will* "carry over" (in the form of lower prices) into the production of the system. The price competition arrangement I described requires substantial additional early investment. The "carry-over" theory envisions comparable benefits without additional costs. If this is indeed the prevailing view, it is optimistic because the operation of the "carry-over" effect is still open to question in the minds of those outside of the Congress.

Perceived Indirect Benefits

Faith in the direct benefits of competition simply does not adequately explain the level of Congress' interest in the subject. Characterization of noncompetitive or sole-source contracts as wasteful and costly appears on the surface to be an indictment of the implications of monopolistic evils present. To date, however, it is very difficult to find similar objections to procurements featuring design competition that are reduced to a sole source situation very early in the life of the system. Part of the explanation lies in the belief that awarding very large and long-term contracts without competition appears to be unfair to the rest of the industry. The staging of some type of competition creates the appearance of fairness.

Two recent procurements contain suggestions of this phenomenon. One is the International Fighter Aircraft program, which began officially in 1969 and which culminated with the selection of the Northrop F-5E. The program had sole-source beginnings and, in retrospect, this course seems consonant with the character and purpose of

the requirement. Technical superiority was a *negative* criterion; the primary criteria were the speed with which deliveries could be begun and the immediate cost; and there was only one operative aircraft that fit the bill. This acquisition was neither requiring of nor conducive to competition. Nevertheless, reaction was hostile. As one congressman put it, it appeared to be "an outright subsidy to a defense contractor."² Congress took an unprecedented step and enacted into law a requirement that "competition" for the contract award be conducted.³ That this was probably not entirely motivated by a concern to avoid the potential economic disadvantage of sole-source procurement is supported by the absence of any expressed interest, either prospective or retrospective, in the competition itself. The built-in requirement is best explained as a largely successful effort to minimize opposition to a controversial program by precluding any charge of unfairness.

Similarly, when the subject of recompetition arose in debate on the F-18/A-18 program after the Navy appeared to disregard a congressional mandate to use the Air Force Air Combat Fighter, one of the most prevalent supporting arguments was based on fairness.

Thus, support in Congress for acquisition strategies that accentuate and promote competition will not be exclusively a product of belief in the potential economic and technical benefits. Much of the attraction will lie in the appearance of evenhandedness and equity in competitive procurement.

NEGATIVE CONSIDERATIONS

Several factors militate *against* support of the use of competition. The analog of what was termed "direct benefits" is an obvious one: the characteristics of the acquisition may render competition for the contract award superfluous. For example, if the projected buy is small (say in the case of the SR-71), or if the cost of development in relation to the cost of the whole system is very high (as in the case of the B-1), extended competition involving maintenance of multiple sources may be undesirable. Apart from the situations where the theoretical direct benefits of

competition will not accrue, benefits may not be recognized where they are in fact likely. This is the complement to optimistic attribution of advantages to a particular acquisition strategy-- e.g., recognition of a "carry-over" effect in connection with design competition. There are in addition several less obvious negative considerations.

Perceived Alternative Cost Reduction Strategies

There will be at times options that are more desirable from a cost standpoint than any form of competition. The most significant is the choice of improving or adapting an existing system rather than developing a new one. In recent years, the importance of foreign sales⁴ has meant that continuing attention is being paid to the desirability of interservice and intraservice/intersystem commonality, the objective being the reduction of the unit cost of systems offered for export. Examples of this entering into discussions of a new system are the proposals to use modified F-14s or F-15s as the Navy's VFAX (later the Navy Air Combat Fighter). Reducing the unit cost of aircraft already in development or production is an aim that may be inconsistent with development of new systems, even when a competitive source selection process is contemplated. It may inhibit competition by inhibiting new systems.

Organizational Constraints

The difficulty members of Congress face in "internalizing" the future benefits that make attractive advanced competitive strategies involving greater initial expenditures is another constraint on congressional support for such strategies. Thus, although there is acceptance of the fact that increased expenditures in the early stages will result in savings overall, the strategy is not necessarily viewed as self-serving. Members of Congress (primarily in the House, of course) are keenly aware that their positions are secure for just the short run and that short-term costs are more visible (more marketable by opponents) at election time than unrealized long-term savings.

Consequently, future savings are likely to be discounted in favor of savings in the present. The overly optimistic faith in Air Force/Navy commonality (and attendant competition tradeoff) evident in the early days of the Navy Air Combat Fighter case is an illustration.

Adoption of advanced competitive strategies is to some extent discouraged by the evolution of defense spending into a tool of social and economic policy. System cost and performance and enemy threat are rarely the exclusive considerations when initiation or termination of a weapon system program is contemplated. The employment effects of the decision are also weighed carefully. The more important non-performance, non-price considerations become, the less relevant are acquisition strategies that seek to maximize design and price competition. This fact makes the introduction of price competition into major weapon systems acquisition unrealistic.

External Relationships

In the complex relationship of the military services and the Congress one facet stands out and bears rather heavily on any congressional treatment of national security issues: the great deference paid to the services on questions dealing with weapon systems. A good illustration is the statement made by Rep. Elford A. Cederberg (R-Mich.) during the 1975 floor debate on an amendment to cancel the F-18 program. A principal consideration was whether the aircraft was needed as much as Navy witnesses had said or whether modification of other aircraft (F-14 or F-16) was a workable alternative. Rep. Cederberg made this point:

Now there is not anybody on this floor that I know of that knows anything about the designing of aircraft. I certainly do not. I am perfectly willing to leave this matter up to those in the Navy who have been living with this matter year after year.⁵

Both the House and the Senate did just that. The significance in the context of this study is that an inclination on the part of Congress

to use more price competition or extended rivalry may be suppressed if confronted by service dedication to a single system (or contractor). Moreover, although Congress consistently accepts the delays implicit in various alternative acquisition strategies when the services do not seem to be pressing the point, it is also true that Congress is quite responsive when scheduling is a major concern of the military. It is likely that an opportunity for experimentation would be foregone if, for example, testimony by service witnesses stressed declining force levels, etc.

Quite apart from the influence of the military, there is some evidence of apprehension that unfettered competition could lead to attrition among prime contractors--a concern that seems to transcend simple constituency interests. Consider this statement by Rep. Otis Pike (D-N.Y.):

If we really try to make real competition in all our procurements, it is perfectly possible that if the competitors are honest one company is going to win them all. And I can see--I greatly believe in competitive procurement. But I also see an awful danger, too. Some companies are just plain better than others are. I don't know what we can do about it.

This sentiment reflects a recognition of industry imperfection and can be traced to a protective concern for the defense industrial base. Carried to its extreme, both in the idea and its acceptance, the statement is antithetical to both design and price competition in their pure forms.

CONCLUDING OBSERVATIONS

Evidence of the way these considerations are weighted and brought into play suggests that theoretical arguments for competitive source selection techniques simply do not comport with the realities of Congress' role in the acquisition process. Such arguments underestimate congressional concern for the health of the defense industry and for the distributional effects of source selections.

Competition for major weapon system contracts involves a dimension that is rarely acknowledged. It was once acknowledged in an exchange between Senators J. William Fulbright (D-Ark.) and William Proxmire (D-Wisc.) Sen. Fulbright asked whether there was any competition in bidding for the DD-963 destroyers or whether the awards were made on other grounds. Sen. Proxmire replied, "I guess political competition."⁷ Political competition is that in which factors other than price and system design and performance help decide what is to be built. It is submitted that members of Congress are sensitive to this non-technical, non-price evaluation and that Congress values the flexibility it provides. For instance, the SST was not handled as a defense program; but Rep. L. Mendel Rivers (D-S.C.) once provided some insight not only into how it would have been handled but also into the flexibility that the military committee know they have:

You take an SST. I saw both of them. If I had been the one I would have selected the Lockheed version*I think I would have given Boeing something else.*⁸ [emphasis added]

Along these same lines, Rep. Charles Wilson (D-Calif.) was well within the bounds of accepted practice when he called for award of the B-1 contract to North American Rockwell (a constituent) on the grounds that "all recent procurements [had] gone elsewhere."⁹

Political competition for contract awards results from the workings of constituent politics and two factors mentioned above: (1) use of peacetime defense spending as a tool of fiscal policy and social engineering, and (2) aversion to attrition of major defense contractors. The hallmark of the present-day approach to procurement --namely, flexibility--is highly valued since it insures that such non-price, non-technical considerations as a protective interest in the industrial base (what I have called distributional considerations) can contribute to source selection decisions. All of which suggests that Congress would not favor rigid price competition that would close

off non-price and non-performance considerations. And, moreover, any hard sell of the cost benefits of any advanced competitive acquisition strategy will miss its mark if (1) the strategy clearly reduces congressional flexibility, or (2) it is not supplemented by appeals to considerations other than cost savings.

References

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2. Rep. William Fitts Ryan (D-N.Y.), *Congressional Record*, 3 October 1969, p. 28407.
3. Section 101, FY 1970 Department of Defense Appropriation Authorization Act, P.L. 91-121, 83 Stat. 204.
4. A study of 35 major weapon systems by the Congressional Budget Office concluded that "on the average one dollar of [foreign military] sales results in fourteen cents in savings to the U.S., of which four cents represent R&D recoupments." See Congressional Budget Office, *Budgetary Cost Savings to the Department of Defense Resulting From Foreign Military Sales*, 24 March 1976, p. x.
5. *Congressional Record*, 1 October 1975 (daily ed.), p. H9386.
6. House Committee on Armed Services, *FY 1972 DoD Appropriation Authorization, Hearings*, 92d Cong., 1st Sess., p. 4446.
7. *Congressional Record*, 17 August 1970, p. 29292.
8. House Committee on Armed Services, *FY 1970 DoD Appropriation Authorization, Hearings*, 91st Cong., 1st Sess., p. 2354.
9. *Aerospace Daily*, 23 March 1970.

