

170402
GAO

United States
General Accounting Office
Washington, D.C. 20548

Information Management and
Technology Division

B-238836

December 9, 1992



148482

The Honorable Jack Brooks
Chairman, Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

In response to your December 19, 1991, request, this letter discusses the Department of Justice's implementation of recommendations made by the House Committee on the Judiciary in its November 26, 1991, investigative report, Deficiencies In The Department of Justice Award And Management Of Its Project Eagle ADP Procurement. Specifically you asked us to review what progress Justice has made in responding to the Committee's recommendations to improve automated data processing (ADP) management and procurement.

RESULTS IN BRIEF

The Department of Justice has made some progress in implementing the Committee's nine recommendations. It has partially implemented the Committee's recommendations relating to the EAGLE¹ procurement. In response to the recommendation that no additional equipment orders be placed with Tisoft, Inc.,² under the EAGLE contract, Justice has stopped ordering additional personal computers used as EAGLE workstations; however, the Department continues to place new orders involving millions of dollars' worth of other equipment from the EAGLE contractor. As the Committee recommended, Justice has initiated a new price competition for EAGLE-compatible equipment. The Committee also recommended that Justice commence hearings to determine if

¹ EAGLE stands for Enhanced Automation for the Government Legal Environment. The network is composed of integrated subsystems with 12,000 workstations at 200 sites nationwide, processing such sensitive information as the names of undercover agents and witnesses.

² Tisoft, Inc., located in Fairfax, Virginia, was awarded the EAGLE contract by the Justice Department in June 1989.

GAO/IMTEC-93-7R, JUSTICE: IRM and Project EAGLE

556044

RESTRICTED--Not to be released outside the General Accounting Office unless specifically approved by the Office of Congressional Relations.

Tisoft should be debarred. Justice did not hold debarment hearings. Instead, the Department's procurement executive considered the possible suspension and debarment of Tisoft and, after reviewing available documentation, he decided against that action. Lastly, the Department does not agree with the recommendation that the Attorney General should prohibit agency officials from using government funds as payment to companies to drop contract protests.

The Committee also made several recommendations aimed at improving ADP management and operations at Justice. In December 1991 Justice reported computer security as a material internal control weakness under the Federal Managers' Financial Integrity Act; the Department's progress in implementing the remainder of the Committee's recommendations has, however, been limited. For example, the Department has not developed the functional specifications needed for a departmental case management system. Further, the Department still has not developed a comprehensive IRM plan that fully complies with the Paperwork Reduction Act, nor has it fully staffed its central IRM office or clarified its senior IRM official's authority over component organizations.

In response to the Committee's recommendations that the General Services Administration (GSA) and Justice improve oversight, GSA has strengthened its oversight of Justice's ADP procurement activities. However, Justice's Office of the Inspector General believes it already provides sufficient oversight of Department procurement and systems security practices and, therefore, does not plan to increase its audit coverage in these areas.

BACKGROUND

Since the late 1970s, long-standing ADP management problems have beset the Department of Justice. Between 1979 and 1991, we have frequently reported on Justice's need for uniform and accurate litigative case management data, and on weaknesses in ADP management and operations, most notably in the area of ADP security.³ Further, in recent years, the Congress and the General Services Administration have been carefully scrutinizing Justice's ADP procurement practices. In its November 1991 investigative report, this Committee concluded that Justice's \$180-million EAGLE procurement was poorly competed, the contract was poorly managed, and excessive

³ See related GAO products page enclosed with this letter.

prices were paid for the personal computers ordered from Tisoft. In that report the Committee made nine recommendations to the Department regarding the EAGLE procurement and Justice's ADP operations.

JUSTICE ACTIONS TO IMPLEMENT
RECOMMENDATIONS ON PROJECT EAGLE

After concluding that Justice paid excessive prices to Tisoft, the Committee recommended that the Department should (1) place no additional equipment orders with Tisoft under the EAGLE contract, (2) immediately conduct a new price competition for compatible EAGLE equipment, and (3) commence hearings to determine if Tisoft should be debarred. The Committee also recommended that the Attorney General should prohibit agency officials from using government funds as payment to companies to drop contract protests.

Justice Continues to Order
Under the EAGLE Contract

The variety of equipment ordered under the Tisoft EAGLE contract is extensive. It includes such items as personal computers, minicomputers, controllers, printers, and network control stations. For example, between November 1989 and October 1, 1991, Justice purchased or leased 11,902 workstation personal computers under this contract. Included in that number are about 4,000 personal computers obtained under a lease-to-ownership plan⁴ provision of the EAGLE contract. Justice is currently paying Tisoft over \$1.1 million per month for workstation personal computers ordered under this plan prior to October 1, 1991. This amount will start to decrease this month, as the first leased computers become the property of the Department.

Contrary to the Committee's recommendation, Justice continues to order equipment under the EAGLE contract. Between October 1, 1991, and July 28, 1992, Justice placed about 600 orders totalling \$21 million with Tisoft. These orders include equipment such as minicomputers and personal computers used for purposes other than end-user workstations.

⁴ The lease-to-ownership plan is an option available under the EAGLE contract through which the Department may extend payment for equipment over a 36-month period instead of paying the entire purchase price when the equipment is delivered. At the end of the 36-month payment period, the Department owns the equipment.

They also include maintenance on equipment that was ordered before October 1, 1991, as well as software, documentation, training, installation, and maintenance on new equipment. Because Justice could not break down the \$21 million, we were unable to determine exactly how much of that amount was for new equipment.

Justice officials viewed the Committee's recommendation not to order additional equipment under the EAGLE contract to pertain solely to the acquisition of personal computers employed as end-user workstations. Their interpretation of the recommendation was based on emphasis the Committee gave EAGLE personal computer prices in June 1991 hearings.⁵ Accordingly, the Department stopped ordering such personal computers under the EAGLE contract before October 1, 1991.

Much of the new equipment in the 600 orders we reviewed is being acquired through the lease-to-ownership plan, which means that the Department will continue to pay for the equipment for up to 3 years into the future. Furthermore, under this plan, the Department pays a premium of 22.4 percent on the purchase price over the 36-month life of the payments. For example, in researching the 600 orders to determine whether any personal computers were included, we found that 21 orders for 25 personal computers were placed after October 1, 1991. According to Justice officials, those 25 personal computers are intended for dedicated use as optical character readers, not end-user workstations. The 21 orders included about \$347,500 for new equipment--the 25 personal computers as well as minicomputers, printers, network equipment, and other equipment--all of which was being acquired through the lease-to-ownership plan. Translated into dollars, this means that the equipment could cost almost \$2.4 million by the time the Department pays it off. Equipment acquired under the lease-to-ownership plan can be paid off earlier than the 36 months. In such cases, the Department must still pay a premium to Tisoft; however, the premium percentage would be less than 22.4 percent. The amount of the premium depends on when the items are paid off.

⁵ Oversight and Authorization of the Justice Management Division, U.S. Department of Justice, Hearing before the Subcommittee on Economic and Commercial Law of the Committee on the Judiciary, House of Representatives, June 27, 1991.

New EAGLE Price
Competition Underway

Justice is implementing the Committee's recommendation to conduct a new price competition for equipment that is compatible with the systems provided under the EAGLE contract. It has applied for and received a delegation of procurement authority from GSA to acquire approximately 13,000 personal computers and 4,000 laser printers. On May 6, 1992, the Attorney General approved a consolidated procurement proposal to purchase equipment for EAGLE and other systems, such as the Consolidated Asset Forfeiture Tracking System. A draft request for proposals is scheduled to be issued in November 1992, with the final request for proposals issued in January 1993.

Justice Decided Not
to Debar Tisoft

The Committee also recommended that the Attorney General direct the Department to commence hearings to determine if Tisoft should be debarred from government contracting. This was based on an allegation that Tisoft had misled the Department by failing to disclose that Unisys, Tisoft's proposed maintenance subcontractor, had terminated its teaming agreement and association before contract award and that Unisys would not, therefore, perform maintenance services under the contract.

Debarment--excluding a company from government contracting--is designed to implement the government's policy of dealing only with responsible contractors. A company may be debarred for an offense that indicates a lack of business integrity and directly affects the company's present responsibility. The Federal Acquisition Regulation does not require that a hearing be held in connection with the decision of whether to initiate a debarment action. As we previously testified, debarment might be an option in cases in which a contractor knowingly misleads the government, depending upon the seriousness of the misrepresentation.⁶

The Department did not conduct a debarment hearing. It referred the Committee's recommendation to its procurement executive, the Department's debarring and suspending official. The procurement executive reviewed existing

⁶ Serious Questions Remain About Justice's Management of ADP and Computer Security (GAO/T-IMTEC-91-17, June 27, 1991).

documentation--such as the Department's files pertaining to the EAGLE contract bid protest⁷--plus the Committee's November 1991 investigative report, the EAGLE contracting officer's technical representative's sworn testimony before the Committee, and the EAGLE contractor's position paper regarding the Committee's report. He also interviewed Justice parties having knowledge of the Tisoft/Unisys issue.

On March 13, 1992, the procurement executive issued a determination not to pursue debarment of Tisoft. His decision was premised on two principal factors:

- Unisys and Tisoft officials testified in conjunction with the protest that, as of the date of award and even after, they were continuing to negotiate for Unisys' maintenance subcontract, Unisys was still willing and available to perform, and there was no evidence that Tisoft did not intend to use Unisys as its subcontractor.
- The executive found no evidence that Tisoft had any reason to believe that Unisys was unavailable or unwilling to perform as its maintenance subcontractor.

Justice Disagrees with the Committee's
Recommendation Not to Use Government
Funds To Settle Protests

As a result of Justice's awarding the Project EAGLE contract to Tisoft, other competing vendors filed protests with the GSA Board of Contract Appeals. These vendors complained, in part, that Justice awarded different point scores for the same evaluation factors to different offerors proposing the same hardware or software products. To settle competing vendor protests, Tisoft agreed to make up to an estimated \$6 million in payments to the protesting vendors, depending on Tisoft's gross revenues during the 8-year life of the EAGLE contract. Justice agreed to contribute \$200,000 toward this settlement.

As a result of this payment and other factors, the Committee believed that Tisoft "bought off" the other protesting vendors, with financial assistance from the Justice Department.Consequently, the Committee recommended that the Attorney General prohibit agency officials from using

⁷ In June 1989, unsuccessful vendors filed a bid protest with the GSA Board of Contract Appeals alleging improprieties on the part of the Department and Tisoft.

government funds as payment to companies to drop their protests before the GSA Board of Contract Appeals, except for funds used to pay reasonable attorneys' fees and bid-preparation costs.

According to the Assistant Attorney General for Administration, the Department does not plan to implement the Committee's recommendation because, in Justice's view, agency officials should be able to use government funds as payments to companies to settle protests.⁸ This official noted that this view is consistent with Justice's November 12, 1991, comments opposing the enactment of section 307 of the Committee's procurement reform bill, H.R. 3161, which would authorize the GSA Board of Contract Appeals to decline to approve such settlements.

JUSTICE HAS MADE LIMITED PROGRESS IN
IMPROVING ADP MANAGEMENT AND OPERATIONS

The Department of Justice has made some limited progress in implementing the Committee's recommendations to solve persistent and long-standing problems in its ADP management and operations. These problems and Justice's repeatedly inadequate responses to recommendations for improvement are well documented.⁸

On the basis of our work and its own investigation, the Committee recommended that Justice (1) develop functional specifications for a new competitive case management system acquisition, (2) revise its IRM plan, and (3) take immediate steps to ensure that the Department fully complies with requirements of the Paperwork Reduction Act by augmenting the resources of Justice's central IRM office and providing appropriate authority to the senior IRM official to implement departmental IRM decisions.

To date, Justice's progress in implementing these recommendations has been slow. Justice still has not completed the steps necessary to develop functional specifications for a departmental case management system, developed a comprehensive IRM plan that fully meets the requirements of the Paperwork Reduction Act of 1980 (P.L. 96-511), added adequate resources to its central IRM office, or given its senior IRM official clear authority to direct component organizations to implement departmental IRM decisions.

⁸ See related GAO products page enclosed with this letter.

Functional Specifications for
Departmentwide Case Management
System Still Not Developed

In addition to the Committee's November 1991 report, we have noted on numerous occasions in the past 13 years the need for uniform, accurate case management data from the Department's litigative organizations.⁹ After a number of false starts and over a decade of effort, Justice still lacks a system that can accurately provide the total number of cases being litigated and the total number of staff in the litigating organizations working on them. To date, Justice still has not developed functional specifications for a Departmentwide case management system.

In June 1991¹⁰ we reported to you that Justice had contracted with FEDSIM,¹¹ an organization within GSA, to perform a requirements analysis for a case management system. However, this analysis was never performed because funds were not made available.

Justice has, however, taken important prerequisite steps toward developing functional specifications for a case management system. Justice has reached a consensus among its litigating organizations for standardizing previously non-comparable information on cases, including case numbering and case type definitions. The Department's objective is to develop a summary-level management information database that is intended to function as a centralized departmental reporting system but not a case management system. It is intended to serve as a foundation upon which a more sophisticated system can be built in the future. As it is envisioned, however, the database will not include information showing the total number of staff in the

⁹ Justice Department: Improved Management Processes Would Enhance Justice's Operations (GAO/GGD-86-12, Mar. 14, 1986), Department of Justice Case Management Information System Does Not Meet Departmental or Congressional Information Needs (GAO/GGD-83-50, Mar. 25, 1983), and Department of Justice Making Efforts to Improve Litigative Management Information Systems (GAO/GGD-79-80, Sept. 4, 1979).

¹⁰ GAO/T-IMTEC-91-17.

¹¹ FEDSIM stands for Federal Computer Performance Evaluation and Simulation Center, which specializes in performing technical evaluations.

litigating organizations working on individual cases and, therefore, will not provide work-load information with which resource allocations and budgetary decisions can be made. Further, the database may not provide certain information the Attorney General needs, such as sentences, awards, and fines.

Justice Has Revised
Its IRM Plan

The Committee also recommended that Justice revise its IRM plan to reflect the requirements of the Paperwork Reduction Act. The act, together with generally accepted IRM planning methodologies, requires that a strategic plan clearly articulate an agency's business vision, as well as how best to use information technology to accomplish the agency's mission. The plan should identify specific IRM goals and objectives and provide a master plan for systems needed to meet those goals and objectives. Further, it should provide a transition plan detailing how today's systems and architectures will evolve and describe the hardware and software architectures required to support future systems. Finally, the plan should summarize the expenditures for these hardware and software needs over the 5-year life of the plan, identify events that may affect IRM resource needs, and discuss the significance or consequences of each event. Justice's revised plan and its supporting documentation do not meet all these requirements.

In January 1992, in response to the Committee's recommendation, Justice issued a 5-year strategic IRM plan for fiscal years 1992 through 1996. According to Justice officials, the Department's strategic IRM plan, when taken in conjunction with its tactical plan, component plans, and budget submissions, fulfills all the requirements of the act. They believe the plan, with its supporting documentation, presents an approach to solving the Department's ADP problems and links component organizations' approaches to ADP needs to an overall Department mission. Justice officials believe the plans should allow the Department to assess whether its components' ADP initiatives are supporting a Departmentwide vision of how information technology will be used to achieve its mission, goals, and objectives.

Justice's strategic IRM plan is a step in the right direction and articulates Justice's vision of its technology infrastructure to the end of the decade. It also provides objectives and goals that component plans are expected to meet--for example, ensuring computer and information security, and utilizing information technology to enhance

productivity. However, even with supporting documentation, the Department's plan does not meet all requirements for a strategic IRM plan. It does not, for example, provide a Departmentwide systems architecture. It also does not include a summary listing of data processing and telecommunications systems required, nor does it summarize expenditures for hardware and software needed over the 5-year period. Further, some component strategic plans do not articulate the components' vision from both a business and IRM perspective, nor do they specify the hardware and software architectures envisioned to accomplish their plans.

IRM Resources Have Been Increased
but Vacancies Exist; Central
IRM Authority Is Being Clarified

To fully comply with the Paperwork Reduction Act, the Committee also recommended augmenting the resources of and providing appropriate authority to Justice's central IRM office.

Distribution of Resources
In Central IRM Office

Justice has augmented its IRM resources. In November 1990 the Justice Management Division reorganized, creating the position of Deputy Assistant Attorney General for Information Resources Management. Until that time, the Department's IRM-related functions were carried out by five independent staff-level offices. With the November 1990 reorganization and subsequent hiring in April 1991 of a Deputy Assistant Attorney General for Information Resources Management, Justice consolidated all IRM functions under a central IRM organization. In the process of reorganizing and consolidating staffs, Justice has augmented its central IRM organization by a net increase of 87 authorized positions since 1990, for a total of 384 authorized positions in August 1992.

Within Justice's central IRM organization, for example, the Systems Technology Staff (formerly the Project EAGLE Office), which is responsible for monitoring and administering ADP acquisitions such as Project EAGLE, has gained 45 positions since 1990. In that time, the Systems Policy Staff, responsible for IRM planning and budget oversight in the Department, has gained 9 positions. Further, the Department has created a new group in the central IRM organization, the Computer and Telecommunications Security Staff, with 12 positions authorized. This new staff is responsible for all

operational aspects of computer and telecommunications security, including guidance and technical assistance to all departmental component organizations and review of component performance.

Despite Justice's efforts to augment its IRM resources, however, the central IRM organization has numerous vacancies. Of the 384 authorized positions, 31 are vacant. As of October 1992, the Systems Technology Staff had 5 of its 48 positions unfilled, the Systems Policy Staff had 4 of its 28 positions unfilled, and the Computer and Telecommunications Security Staff had 6 of its 12 authorized positions unfilled. The Computer Services Staff had 8 of its 162 positions unfilled, the Telecommunications Services Staff had 6 of its 101 positions unfilled, and the JURIS Office had 2 of its 28 positions unfilled.¹² All 5 authorized positions in the immediate office of the Deputy Assistant Attorney General for Information Resources Management were filled.

According to the Deputy Assistant Attorney General for Information Resources Management, a Computer and Telecommunications Security Staff director has recently been hired. The Deputy Assistant Attorney General also said that Justice plans to fill the remainder of the computer security positions as well as vacancies on the other IRM staffs by the end of this year. In addition to positions already added to augment the central IRM organization, that office requested another 50 positions in its fiscal year 1993 budget, and another 24 positions in its fiscal year 1994 budget, five of which were specifically requested to augment the Systems Policy Staff.

Authority of Central IRM
Official to be Clarified

On June 20, 1991, the Attorney General issued a memorandum to the heads of all departmental components restating the senior IRM official's responsibilities in implementing Departmentwide IRM decisions. The Attorney General stated that the senior IRM official had the authority to ensure that

¹² The Justice Retrieval Inquiry System (JURIS) office, previously known as the Legal and Information Systems Staff, is a staff office of the Deputy Attorney General for IRM that was renamed during the April 1992 IRM reorganization.

- "all components of the Department of Justice possess the best automated information systems technology and applications to support their needs;
- each component achieves its requirements in the most efficient and effective manner possible; and
- the Department's automated systems and telecommunications are so established as to maximize the cohesion, coordination, and consolidation of the Department's substantive activities."

Under the Paperwork Reduction Act of 1980, federal agencies are assigned various information management responsibilities. These responsibilities include implementing applicable governmentwide and agency information policies, principles, standards, and guidelines. Under federal regulations, Justice's senior IRM official also has broad responsibilities that include IRM functions such as (1) formulating department policies, standards, and procedures for information systems; and (2) providing the final review and approval of systems, procedures, and standards for the use of data elements and codes.

According to the senior IRM official, Justice will be revising its departmental orders and regulations to emphasize to component organizations that the senior IRM official has the authority to direct their IRM activities in compliance with the Paperwork Reduction Act.

INSPECTOR GENERAL PERIODICALLY
AUDITS JUSTICE'S PROCUREMENT
AND SECURITY PRACTICES

The Committee had also recommended that the Department's Office of the Inspector General include, in its strategic and annual work plans, provision for periodic audits of Justice's procurement and systems security practices to ensure that these areas receive appropriate attention and support.

According to Justice's Deputy Inspector General, the Inspector General's annual work plans already require periodic audits of the Department's procurement and systems security practices and, therefore, no additional adjustments need to be made.

Our review of the Justice Inspector General's annual work plan for fiscal year 1992 showed that the office planned an audit of the Justice Management Division's procurement

practices. The plan also included an audit of Project EAGLE, addressing procurement issues as well as computer security and other concerns. Because the Department is in the process of replacing Project EAGLE, however, the plan was modified. Instead of reviewing Project EAGLE, the Office of Inspector General is reviewing its replacement. In addition to these two audits, the annual work plan included seven other audits in which computer security would be addressed. These nine planned audits have been either completed or are underway. Further, a sample of Justice's audit programs shows a requirement to review computer security each time an audit is performed of any program or function that uses automated support.

Justice's Office of Inspector General semiannual reports to Congress prepared from 1989 through 1991 also show that at least eight audits and inspections that included computer security issues were conducted during that time, as well as another eight addressing procurement issues. Additionally, Inspector General audit reports for 1989 through 1991 identified significant computer security deficiencies in several Justice component organizations.

GSA OVERSIGHT STRENGTHENED

The Committee also recommended that the General Services Administration strengthen its procurement oversight activities to ensure that Justice's acquisitions are being effectively planned and managed.

GSA has strengthened its oversight of Justice's ADP procurement. It has denied Justice's request for additional procurement authority under the EAGLE contract, reduced the amount of the Department's standing delegation of procurement authority from \$5 million to \$1.5 million, and reduced Justice's sole-source acquisition threshold from \$500,000 to \$150,000.

GSA plans to continue to monitor Justice closely. The Department will continue to operate on a reduced delegation of procurement authority and sole-source acquisition threshold until such time as GSA determines that Justice has improved its ADP procurement management.

IMPROVEMENTS BEING MADE
IN COMPUTER SECURITY

As recommended by the Committee, Justice reported computer security as a material internal control weakness under the Federal Managers' Financial Integrity Act. The Department has taken action to improve the security of its computer systems and sensitive information. For example, the Department's security staff has issued new and revised policy directives on computer and telecommunications security, and has conducted numerous on-site security compliance reviews at component organizations throughout Justice. In addition, the Department completed a major security upgrade of its main data center.

- - - - -

We discussed the contents of this letter with Justice's senior IRM official and other senior officials, who generally agreed with the facts as presented. We have incorporated their views in the letter as appropriate. We conducted our review between March and October 1992, in accordance with generally accepted government auditing standards.

As agreed with your office, unless you publicly announce the contents of this letter earlier, we plan no further distribution until 30 days from the date of this letter. We will then send copies to the Attorney General; the House and Senate Appropriations Committees; the Director, Office of Management and Budget; and interested congressional committees. Copies will also be made available to others upon request. If you have any questions about this letter, please contact me at (202) 512-6418.

Sincerely yours,



Howard G. Rhile
Director, General Government
Information Systems

Enclosure

RELATED GAO PRODUCTS

Computer Security: DEA's Handling of Sensitive Drug Enforcement and National Security Information Is Inadequate (GAO/T-IMTEC-92-24, Sept. 30, 1992).

Computer Security: DEA Is Not Adequately Protecting Sensitive Drug Enforcement Data (GAO/IMTEC-92-83, Sept. 22, 1992).

Computer Security: DEA Is Not Adequately Protecting National Security Information (GAO/IMTEC-92-31, Feb. 19, 1992).

Serious Questions Remain About Justice's Management of ADP and Computer Security (GAO/T-IMTEC-91-17, June 27, 1991).

Justice's Weak ADP Security Compromises Sensitive Data (Public Version) (GAO/T-IMTEC-91-6, Mar. 21, 1991).

Problems Persist in Justice's ADP Management and Organizations (GAO/T-IMTEC-91-2, Dec. 5, 1990).

Information Resources: Problems Persist in Justice's ADP Management and Operations (GAO/IMTEC-91-4, Nov. 6, 1990).

Information Management: Immigration and Naturalization Service Lacks Ready Access to Essential Data (GAO/IMTEC-90-75, Sept. 27, 1990).

Justice Automation: Tighter Computer Security Needed (GAO/IMTEC-90-69, July 30, 1990).

Justice Automation: Security Risk Analyses and Plans for Project EAGLE Not Yet Prepared (GAO/IMTEC-89-65, Sept. 19, 1989).