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Statement of

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before the

Subcommittee on Government Activities and Transportation
Committee on Government Operations
House of Representatives

concerning

GAO's first biennial review on the Implementation and Impact of Public Law 94-519

Mr. Chairman and Members of the Subcommittee:

I welcome this opportunity to appear before you today to discuss our first biennial report on the implementation and impact of Public Law 94-519. As the Subcommittee is aware, Section 10 of the Law requires GSA and GAO to submit biennial reports on the implementation and impact of the Law.

In addition, the Chairmen and Ranking Minority Members of the Senate Committee on Foreign Relations and the Subcommittee on Civil Service and General Services, Senate Committee on Governmental Affairs, emphasized the need to include in our report information on the experience of the Agency for International Development and private voluntary overseas relief

organizations resulting from Public Law 94-519. Also, because the Department of Defense was planning to impose a care and handling surcharge on donated DOD property, Chairman Brooks of the Government Operations Committee and you, Mr. Chairman, requested that we include a discussion of care and handling costs for donated Federal property.

GAO's FIRST BIENNIAL REPORT

Have the objectives intended by the Congress in enacting Public Law 94-519 been achieved?

Based on our first review, we believe that the objectives of the Law were generally being achieved. As intended by the Congress, much less excess property was being transferred to non-Federal organizations--only $52.2 million in fiscal year 1979 compared to $371 million in 1977. A greater portion of this property was being transferred to Federal agencies for their use. In fiscal year 1977, transfers of excess property for internal Federal use had decreased to $715 million and represented only 65.8 percent of the total amount of such property transferred. In the 2 years covered by our report, fiscal years 1978 and 1979, the amounts of property transferred to Federal agencies for their use increased to $779 million and $737 million. These transfers represented 89 and 93 percent, respectively, of the total excess property transfers in these 2 years. Also, the achievement of another major objective of the Law was demonstrated by the greater flow of surplus property to eligible donees. Such donations increased from $285 million in fiscal year 1977 to $388 million in fiscal year 1979.

Have the needs of non-Federal organizations served by prior Federal distribution programs been adequately met?

To judge the qualitative impact of the Law on former recipients of excess property, we had to depend primarily on discussions with officials who were able to offer opinions or perceptions. Excluding strong complaints expressed by grantees of the Economic Development Administration (EDA) and organizations which formerly received property through Regional Action Planning Commissions under section 514 of the Public Works and Economic Development Act of 1965, knowledgeable Federal officials generally were not aware of any serious adverse impact on these recipients caused by the Law. We believe the complaints expressed by EDA grantees and section 514 recipients were to be expected, because they had become accustomed to receiving relatively large amounts of excess property before the Law. By broadening the range of purposes for which surplus property could be furnished under the Donation Program to include many new purposes, such as economic development, the Congress attempted to ensure these organizations' continued receipt of reasonable amounts of property. Our analysis showed that substantial, and increasing, amounts of property were being donated for these new purposes. In fact, except for education, more property was donated for economic development purposes than for any other purpose in fiscal year 1979.

Has the distribution of surplus property met the relative needs of recipient organizations?

The General Services Administration and the responsible State Agencies for Surplus Property had established procedures which appeared to be reasonably effective in assuring that donated property was distributed fairly and equitably. However, GAO found some problems which will require continued management attention.

The amount of excess property being transferred to non-Federal organizations is still substantial and improvements are needed to ensure that the property is managed and used as intended by the Congress. For example, GAO found instances where:

--The National Science Foundation was transferring to some grantees property costing more than the value of their grants without appropriate approval.

--GSA was approving transfers to NSF grantees of common-use property without requiring that the Treasury be reimbursed 25 percent of the property's acquisition costs as called for in the Law.

--GSA and NSF were approving transfers of property to grantees whose grants were about to expire.

--Some Federal grantor agencies did not have effective surveillance procedures to ensure that grantees were properly using excess property.

GAO also found areas where the management of the surplus property Donation Program could be improved. For example, GAO found:

--Most States had not submitted permanent, legislatively developed Donation Program plans of operation, as required by the Law.

--Inconsistent and possibly excessive service charges assessed by some State Agencies.

--Inadequate inventory control procedures at some State Agencies.

--Nonuse or improper use of property by donees.

--Insufficient audit and review of the Donation Program.

GAO's recommendations on excess transfers and agency responses

Regarding the transfer of excess property to non-Federal organizations, GAO recommended that:

--The Administrator of General Services require GSA personnel to review proposed transfers of excess property to Federal grantees thoroughly and to return, without approval, those which do not appear proper. These include any nonreimbursable transfers of common-use items to National Science Foundation (NSF) grantees and any transfers to grantees whose eligibility apparently has expired or soon will.

--The heads of all Federal agencies which transfer excess personal property to their grantees, review their plans, policies, and procedures on such transfers

and ensure that they fully comply with the applicable provisions of Public Law 94-519 and the implementing Federal Property Management Regulations.

GSA officials agreed with our conclusions and recommendations and stated that they had taken or would take various actions to ensure that their regional offices excercise proper control over transfers of excess property to non-Federal organizations. With one exception, the actions GSA has taken or will take appear adequate. The exception involves transfers of property to National Science Foundation grantees. GSA pointed out that the FPMR provides that GSA will consider items of personal property as scientific equipment when NSF certifies that the item requested is a component part of or related to a piece of scientific equipment or is an otherwise difficult-to-acquire item needed for scientific research. GSA officials also stated that they will instruct their regional offices to require reimbursement in the absence of the required NSF certification on transfers of equipment that is not clearly scientific.

The National Science Foundation disputed several of our report findings and in general expressed the view that it was properly administering its program of transferring excess property to grantees. We disagree with NSF and stand by our findings. One of NSF's responses should be of special interest to the Subcommittee. NSF contends that the Congress intended to allow transfer to its grantees of any excess property which would be used in scientific research projects without payment of 25 percent of acquisition cost to the Treasury. We believe the legislative history of the Law makes it clear that only excess

scientific equipment should be transferred to these grantees without payment and that common-use property should be transferred with payment or after it becomes surplus.

The comments received from the other Federal agencies expressed general agreement with our findings, conclusions and recommendations.

GAO's recommendation on the donation program and agency responses

Regarding the surplus property Donation Program, GAO recommended that the Administrator of General Services:

--Improve GSA's procedures for allocating donable property among the States by requiring the GSA allocating regional offices to accumulate and use historical information on past allocation of highly desirable reportable items of property. This information should include for each type of item the quantity, acquisition cost, and condition of property previously allocated to each State.

--Take the necessary actions, including establishment of timetables and penalties, to require all States to comply with the provisions of Public Law 94-519, including such matters as (1) submission of permanent, legislatively developed State plans of operation, (2) accomplishment of biennial external audits which include reviews of State Agency's compliance with the State plans of operation and applicable sections of the FPMR, (3) establishment of equitable service

charges, (4) proper accountability for Federal property, and (5) proper use of property by donees.

GSA officials generally agreed with our findings and recommendations and indicated corrective actions they would be taking. GSA did not agree with our recommendation that action be taken to require States to submit permanent, legislatively developed State plans of operation. GSA agreed that State plans should be permanent, but believed that the executive branch of the State government, not the legislative, should prepare such a plan. In preparing for these hearings, we learned that GSA, in its testimony today, intended to recommend an amendment to the Law removing the requirement that State plans be prepared by the State legislatures. We do not agree with GSA's recommendation. The legislative history of the Law clearly shows that the Congress wanted State legislatures to develop the plans to assure broad public input to their development through the State legislators.

The State Agencies responding to our report provided additional information on matters discussed or corrective actions they would take.

How has Public Law 94-519 affected the AID excess property program

Under the revised procedures resulting from Public Law 94-519, certain Agency for International Development (AID) programs do not have as ready access to excess property, without cost, as they had in the past. There has been a general decline in the amount of Federal property used by these

programs; however, the extent to which this decline was caused by the Law's implementation can not be accurately measured because other factors were also responsible.

AID provided us data showing that the amount of Federal property used for its programs had declined from $18.1 million in 1977, the year before Public Law 94-519 took effect, to $10.7 million in 1978. However, this data does not clearly depict the situation regarding AID's use of excess property because it includes acquisitions of nonexcess property for which AID reimbursed other Federal agencies. Further examination of the AID data showed that the decline in the amount of Federal property used in its programs began long before the Law was implemented. In 1975, AID acquired $26 million of property. In 1976, the amount acquired declined to $25 million. Then, in 1977, the year preceeding implementation of the Law, the amount of Federal property used by AID in its programs had declined to $18.1 million.

This general decline in the use of Federal property, including excess property, by AID is attributable to various factors in addition to the implementation of Public Law 94-519, including:

--Increased costs of reconditioning excess property.

--Higher transportation costs to move the property overseas.

--Lack of support by AID overseas officials for the use of excess property.

--Lack of interest on the part of foreign country officials in using excess property.

In commenting on our report, AID suggested that we recommend that the Law be amended to give AID a higher priority in the acquisition of excess property. We did not adopt the suggestion because we believe the relative priority of AID's programs is consistent with the intent of the Congress.

Federal agencies practices for recovering care and handling costs for surplus property donated to non-Federal agencies

The Federal Property and Administrative Services Act of 1949 allows the transfer of surplus property to the State Agencies for donation without reimbursement for any part of the original acquisition cost of that property. Section 203(j) of this Act authorizes Federal agencies to recover their care and handling costs for such property. GSA, which is responsible for interpreting and implementing the 1949 Act, had determined that only direct costs of packing, shipment preparation and loading of property are recoverable under the Act and that other costs would be incurred whether or not the property was donated and, therefore, should be absorbed by the Federal Government. GSA had also determined that otherwise recoverable costs of less than $100 for any transfer need not be collected because their collection would be uneconomical. GSA's interpretation had been accepted Federal policy for many years. On occasion, Federal agencies have recovered some costs but only on those transfers requiring extraordinary efforts not normally experienced in disposing of property. In most cases, no charge was levied on the State Agency. However,

the Department of Defense Appropriation Act of 1980 required GSA to implement regulations requiring recovery of Federal costs of care and handling of DOD surplus property which is donated.

You asked us to determine whether Federal care and handling cost data is available. We contacted various civil agencies and found generally that they did not routinely account for or recover care and handling costs related to the transfer of surplus property to State Agencies. Officials of these agencies considered such costs to be minimal and apart of the overall costs of managing their property. Most of these officials believed it would cost more to establish a system to bill and collect from State Agencies a care and handling surcharge than would be collected.

We did examine a Defense Logistics Agency study which estimated that the cost for care and handling of donated property in 1978 amounted to $5.3 million. In analyzing this study, we determined that almost half these costs were for functions other than care and handling and that almost all of the care and handling costs would have been incurred whether the property was donated or sold.

You also asked us to provide information on how a care and handling surcharge might affect the Donation Program. We requested each State Agency to provide a list of 10 donee organizations, of various types and sizes. Fifty-two of the State Agencies responded and provided the names of 519 donees to whom we sent questionnaires. We received 222 donee responses. Of these, 145 were sufficiently complete to be analyzed. On the

basis of our analysis of these responses, we concluded that (1) imposition of a care and handling surcharge would result in reduced donee participation in the Program and (2) the reduction in participation would be significant if the surcharge exceeded 1 percent of the property's original acquisition cost.

At the time we made our analysis, the surcharge on DOD property had not yet been imposed. It was eventually imposed beginning July 7, 1980. From that date until September 30, 1980, the charge was 2 percent of the DOD property's original acquisition cost. From October 1, 1980, through December 15, 1980, when DOD's continuing funding resolution for fiscal year 1980 expired, the charge was reduced, through an agreement between GSA and DOD, to 1/2 percent of the property's original cost. For the entire period covered, DOD billed State Agencies for about $574,000. As of July 15, 1981, $431,000 had been collected, leaving $143,000 still to be collected. No surcharge was levied on property of civil agencies obtained by State Agencies.

Based on our review, we concluded that inclusion of the requirement for a care and handling surcharge in the fiscal year 1980 DOD Appropriations Act, in effect, questioned GSA's previous interpretation of what care and handling costs should be recovered when surplus property is transferred under the Donation Program. In addition, an inconsistency existed because the DOD Act did not affect civil agency property. Therefore, GAO recommended that the Congress clarify what costs it deems should be recovered under section 203(j)(1) of the

Federal Property and Administrative Services Act of 1949, so that these costs would be handled consistently throughout the Federal Donation Program.

GSA did not comment on our recommendation on care and handling costs. DOD had no objection to our recommendation that the Congress clarify what costs should be recovered. The other civil agencies involved in this portion of our review agreed with our recommendation.

The 1981 DOD Appropriations Act did not contain a provision for collecting care and handling costs on donated DOD property. As a result, a surcharge is not currently being collected.

GAO's SECOND REVIEW

During our second review, which will being next month, we will verify whether corrective actions promised in response to our first report have actually been implemented. In addition, we will continue to measure the impact of the Law and evaluate its implementation during its second 2-year period of operation. We plan to concentrate on areas where we have noted the need for improvement in the past and the impact and effectiveness of any new policies and procedures which have been initiated since our last involvement. However, we also will perform sufficient audit checks of other areas to detect problems that did not exist during our first review.

GAO COMMENTS ON RECOMMENDATIONS CONTAINED IN GSA REPORT OF APRIL 15, 1980

The Administrator of General Services' biennial report contained seven recommendations. We agree with 5 of the 7 recommendations. We have reservations with the other 2. These are:

GSA recommended that the Administrator of General Services be given the authority to establish criteria and impose terms, conditions, and restrictions on any single item of personal property donated, when determined necessary, because of the type, nature, condition, use, and acquisition cost of the property.

At present, the Law requires that the State plans of operation provide that donees return property if not placed in use within one year of donation or if the property ceases to be used within one year of being placed in use by the donee. GSA believes that, while this requirement is reasonable under normal conditions, there are situations under which other terms, conditions or restrictions would be more appropriate for particular items of donated property.

GAO does not object to the thrust of GSA's recommendation, but we believe that the implementing procedures would have to be devised very carefully to assure a reasonable degree of discipline by donees in the use of property and that the impact of these procedures be monitored and discussed in GSA's subsequent reports to the Congress under the Law.

GSA also recommended that section 202(e) of the Federal Property and Administrative Services Act of 1949, as amended, be repealed.

GAO does not fully agree with this recommendation. The section GSA is asking be repealed requires all executive agencies to submit to GSA annual reports showing information on all personal property furnished in the United States to recipients other than a Federal agency. GSA is then required to submit to the Congress a summary and analysis of these reports. GSA has stated that the reports provide very little data that is not otherwise available from excess property transfer orders or other GSA statistical reports and that most of the property furnished comes from excess sources.

The benefit to be derived from these reports was described in the Congressional committee reports on the bill that was enacted as Public Law 94-519 as follows:

> "This requirement, for the first time, will give GSA and the Congress a ready source of information on how excess property and other property not technically excess but available for transfer to non-Federal users are, in fact, being utilized."

We would not object to the reporting requirement being modified to cover only non-excess property, since data on the excess property could be obtained from existing GSA reporting systems. However, we believe the information on non-excess property transferred is of value in that it provides the Congress with otherwise unavailable information on Government assets which have been transferred to non-Government users.

GAO RECOMMENDATION CONCERNING PUBLIC LAW 94-519

In closing, I would like to request that our biennial reporting requirement be lifted. Our second report is due in 1982 and by that time Public Law 94-519 will have been in effect for almost 5 years and the restructured program for transferring excess and surplus property should be operating routinely. Also, the Law and implementing regulations require independent external audits of the State Agencies for Surplus Property, the GSA Inspector General reviews the Donation Program, and internal audits are conducted of Federal agencies' transfers of excess property to their grantees. Therefore, based on the aforementioned audit coverage, we believe it appropriate to eliminate the Law's requirement for a biennial report from GAO. GAO would naturally monitor the status of the programs through the GSA biennial report and periodic external or internal audit reports and, as in the past, identify specific areas needing attention and perform reviews of these areas as needed.

Mr. Chairman, this concludes my prepared statement. My associates and I will be pleased to respond to any questions at this time.