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Defense Manpower Policy 4.

One of the main objectives of the Defense Manpower Policy Number 4, better known as the Labor Surplus Policy, is to direct portions of Federal procurements into economically distressed areas to help the economy of the area and, in particular, to create job opportunities for disadvantaged persons. Firms participating in the program are given a preference in Government contracts. Findings/Conclusions: From 1972 to 1976, average total Government procurement expenditures amounted to \$52.7 billion, of which about \$254 million (or 0.48%) was set aside for labor surplus firms. In 1976, labor surplus firms reported hiring almost 25,900 disadvantaged people, a 23% decline from the number reported hired in 1973. During this same period, unemployment increased by 70%. The number of firms participating in the labor surplus program remained relatively constant despite the increase in surplus labor areas. The Federal Preparedness Agency, which has oversight responsibility over the policy, has not provided specific guidance on the policy to Federal and State agencies. The Federal procurement activities varied in their use of the Labor Surplus Policy. At the State level, responsibility for implementing the policy was often assigned as a part-time duty to a single employee who knew little about the policy's objectives. Recommendations: The Congress should determine the future direction of the Labor Surplus Policy. Congress should either strengthen the policy by giving it a statutory base and providing for modifications to the present policy or should

rescind the policy and rely on existing socioeconomic programs to deal with the problems involved. (Author/SC)

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REPORT TO THE CONGRESS

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

The Labor Surplus Policy: Is It Effective In Providing Government Contracts To High Unemployment Areas And Jobs For The Disadvantaged?

**Departments of Defense and Labor
General Services Administration**

The Labor Surplus Policy is designed to provide Government procurements to areas of high unemployment. However, experience has shown that only a small percentage of Government procurements are set aside for these areas. In recent years, these percentages have declined even more, and the number of disadvantaged persons hired due to the policy has declined.

This report discusses the status of the Labor Surplus Policy--Federal and State implementation and prime contractor participation. It also discusses other areas affecting the policy. GAO believes that the Congress should determine the future direction of the Labor Surplus Policy.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

3-145136

To the President of the Senate and the
Speaker of the House of Representatives

This report addresses the status of the Labor Surplus Policy (Defense Manpower Policy Number 4) and discusses implementation of this policy by Federal and State agencies and other areas affecting it.

Our review was made to determine how the current high level of unemployment in the United States is dealt with through the Federal procurement process and the Labor Surplus Policy.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to Senator Hubert H. Humphrey, Vice Chairman, Joint Economic Committee; Congressmen Joseph P. Addabbo, Chairman, House Subcommittee on Minority Enterprise and General Oversight, Committee on Small Business; Michael J. Harrington and John J. LaFalce; the Director, Office of Management and Budget; and heads of agencies and Governors of the States discussed in this report.

James B. Stacks
Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

THE LABOR SURPLUS POLICY: IS IT
EFFECTIVE IN PROVIDING GOVERNMENT
CONTRACTS TO HIGH UNEMPLOYMENT
AREAS AND JOBS FOR THE DISADVAN-
TAGED?

Departments of Defense and Labor
General Services Administration

D I G E S T

One of the main objectives of Defense Manpower Policy Number 4, better known as the Labor Surplus Policy, is to direct portions of Federal procurements into economically distressed areas to help the economy of the area and, in particular, to create job opportunities for disadvantaged persons. Firms participating in the program are given a preference for Government contracts.

This report discusses the present status of the implementation and the use of the Labor Surplus Policy.

From 1972 to 1976 average total Government procurement expenditures amounted to \$52.7 billion, of which approximately \$254 million (or 0.48 percent) was set aside for labor surplus firms. In 1976 labor surplus firms reported hiring almost 25,900 disadvantaged people--a 23-percent decline from the number reported hired in 1973. In this same 4-year period, (1973 to 1976) the number of people unemployed in the United States increased by 70 percent. Also the number of firms participating in the labor surplus program remained relatively constant despite the increase in surplus labor areas. (See pp. 6 to 7.)

GAO reviewed the implementation of the Labor Surplus Policy at Federal and State levels. At the Federal level, GAO found that the Federal Preparedness Agency, an element of the General Services Administration, which has oversight responsibility over the policy, had not provided specific guidance on the policy to Federal and State agencies. Also, the Surplus Manpower Committee had not met since 1974, and the Department of Labor provided no central

point for coordinating the Labor Surplus Policy. (See pp. 7 to 8.)

The Federal procurement activities varied in their use of the Labor Surplus Policy. In 1976 Department of Defense labor surplus set-asides amounted to \$153 million (0.41 percent of the total Defense procurement expenditures applicable to the labor surplus program); in civilian executive agencies they amounted to \$107.5 million (0.6 percent of civilian agency procurement expenditures). Of the amounts awarded to labor surplus area firms, the Defense Logistics Agency in the Department of Defense, and the General Services Administration, and the Department of the Interior among the civilian executive agencies set aside the largest dollar amounts. (See pp. 8 to 10.)

At the State level, responsibility for implementing the Labor Surplus Policy was often assigned as a part-time duty to a single employee who knew little about the policy's objectives. The State agencies reviewed stated that they did not receive timely information from the Department of Labor, and they felt that they were not adequately funded to implement the policy properly. GAO noted a general lack of knowledge about the policy at several State locations visited. (See pp. 10 to 12.)

GAO observed two other items that affect the Labor Surplus Policy--competing socioeconomic programs, such as the small business program, and the broad definitions of surplus labor areas presently used by the Department of Labor. (See pp. 14 to 17.)

GAO believes that the Congress should determine the future direction of the Labor Surplus Policy. Accordingly, GAO recommends that the Congress either strengthen the policy by giving it a statutory base and providing for modifications to the present policy, or rescind it and rely on existing socioeconomic programs to deal with the problems involved.

The Departments of Labor and the Interior, and the Small Business and Veterans Administrations generally concurred with GAO's findings and conclusions. The Department of Labor commented that it is working on changes dealing with the Labor Surplus Policy.

The General Services Administration felt that the main purpose of the policy was for defense mobilization readiness rather than for promotion of socioeconomic objectives. The Energy Research and Development Administration said that although the small business program and labor surplus program compete with each other, they can also complement each other. The National Aeronautics and Space Administration said that its requirements generally cannot be severed into two or more parts as the Labor Surplus Policy requires. The Department of Defense suggested that GAO modify its statistics but did not comment on GAO's conclusions and recommendations. (See pp. 19 to 22.)

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ABBREVIATIONS

DOD	Department of Defense
DOL	Department of Labor
GAO	General Accounting Office
GSA	General Services Administration

CHAPTER 1

INTRODUCTION

One of the main objectives of Defense Manpower Policy Number 4, better known as the Labor Surplus Policy, is to direct portions of Federal procurements into economically distressed areas to help the economy of the area and, in particular, to create job opportunities for disadvantaged persons.

ORIGIN OF THE LABOR SURPLUS POLICY: A KOREAN CONFLICT NATIONAL EMERGENCY POLICY

The policy had its origin in a national emergency declaration by the President in December 1950 during the Korean conflict. In all, there were 10 defense manpower policies intended to marshal skilled workers and existing industrial capacity in the event full mobilization was needed. Defense Manpower Policy Number 4, the Labor Surplus Policy, became effective in February 1952 with objectives to:

- Coordinate conversion of industry from civilian to military production.
- Minimize strains and dislocations in the economy resulting from such conversion.
- Preserve employee skills necessary for the fulfillment of Government contracts.
- Maintain productive facilities.
- Assure use of the Nation's total manpower potential by using the manpower resources of each area.
- Help assure timely delivery of goods and services by locating procurements where the needed manpower and facilities were fully available.

Over the intervening years all but the Labor Surplus Policy were rescinded and that has been revised many times, losing much of its orientation toward defense mobilization and turning toward more of a socioeconomic policy. (A copy of the current policy statement is included as app. IV.)

THE CURRENT THRUST: A SOCIOECONOMIC POLICY

As a result of the changing character of localized unemployment and a mandate from the President for all Federal agencies and departments to initiate programs which would create job opportunities for disadvantaged persons, the Labor Surplus Policy underwent a major revision in October 1967. The policy was revised to give preference to contractors who created job opportunities for disadvantaged persons: the young, old, poor, uneducated, and minorities. Generally, these people are considered to be the least successful in their quest for employment.

The 1967 revision did not sufficiently increase the number of participating firms, contract awards, or jobs for the disadvantaged; consequently, the policy was revised again in May 1970 to its present form. As discussed in the following section, the current policy gives various contract preferences to firms in or near labor surplus areas.

PREFERENCES IN AWARDING CONTRACTS UNDER THE LABOR SURPLUS POLICY

Firms are eligible to bid for contracts under the policy through one of three preferences. First preference firms are required to perform all or a substantial portion of a contract in specified labor surplus areas and assure that at least 25 percent of new replacement hires each month will be disadvantaged residents of the area. These requirements are documented in a certificate issued to the firm by State employment agency local offices. The firm must comply with these requirements whether or not it receives a Government contract.

Second preference is given to any firm that agrees that at least 15 percent of its new and replacement hires each month will be disadvantaged workers. This agreement is documented and applied in the same manner as first preference firms.

Third preference is granted to any firm that consents to perform a substantial part of a Federal contract in areas of persistent or substantial unemployment. No certificate is issued. Location of the firm or its subcontractor(s) in these labor surplus areas is sufficient.

THE MAYBANK AMENDMENT

In 1953 an amendment to the Defense Appropriations Act, commonly called the Maybank Amendment, was enacted. The

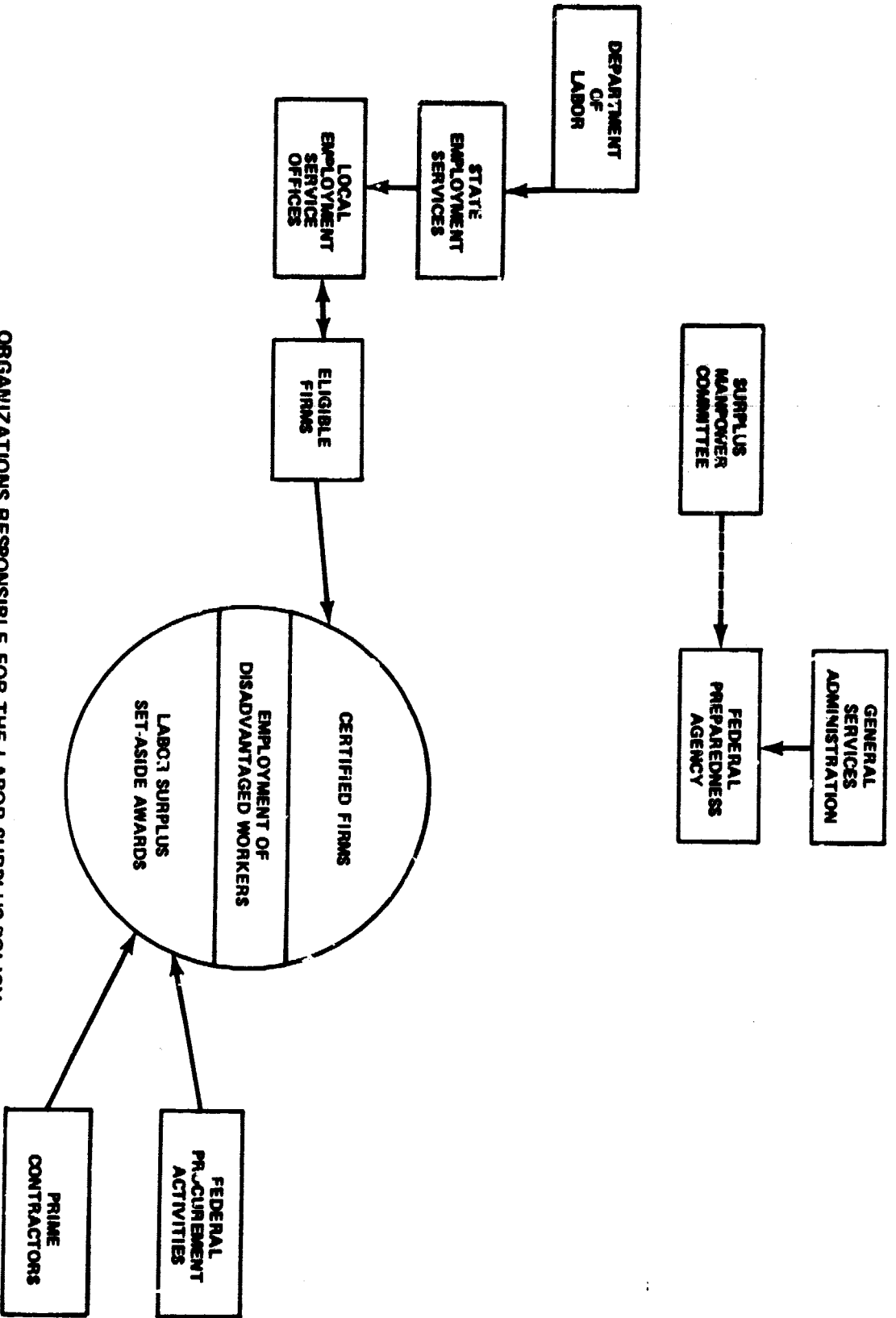
amendment prohibits payment of a price preference to labor surplus area concerns. This provision has been placed in all Defense appropriations acts since 1953. The provision has been incorporated in the Labor Surplus Policy and Federal procurement regulations, which in effect binds civilian agencies to comply with it, although civilian agencies are not bound statutorily by the Maybank Amendment.

Under current practices, contract prices offered to certified firms cannot exceed the prices offered by another bidder. A price differential is avoided through the use of a partial set-aside procedure. This provides that each contract over \$10,000 be split, with one portion open to unrestricted bidding so that a benchmark price can be established which the certified firm has to match in order to be awarded the set-aside portion of the contract. For some procurements, however, a total rather than partial set-aside may be possible without violating the Maybank Amendment. (See p. 8.)

AGENCIES RESPONSIBLE FOR ADMINISTERING THE LABOR SURPLUS POLICY

Responsibility for administering the policy is spread among several agencies. (See fig. 1.) The Federal Preparedness Agency, a part of the General Services Administration (GSA), with authority to formulate policy, has defined and delegated to various Federal agencies the responsibility of implementing and administering the policy. An interagency committee, the Surplus Manpower Committee, was created by Defense Manpower Policy Number 4, to advise the Federal Preparedness Agency on manpower policy. The membership is as follows:

Chairman	Director of the Federal Preparedness Agency or his designee
Members	Department of Defense
	Department of the Army
	Department of the Navy
	Department of the Air Force
	Defense Logistics Agency
	General Services Administration
	Department of Labor
	Department of Commerce
	Small Business Administration



ORGANIZATIONS RESPONSIBLE FOR THE LABOR SURPLUS POLICY

FIGURE 1

Observers National Aeronautics and Space Administration
 Energy Research and Development Administration
 Office of Federal Procurement Policy

The Department of Labor (DOL) has the major responsibilities for administering the policy. It collects statistics on unemployment, classifies areas as labor surplus, disseminates information to all concerned parties, and has the authority to certify firms for eligibility to bid on set-asides. The Secretary of Labor delegated responsibility for certification to the State employment services.

The Office of Federal Procurement Policy is responsible for providing overall guidance and direction of procurement policy and to prescribe policy and regulations for procurement in the Federal Government. Its cognizance of procurement policy extends to the procurement aspects of socioeconomic regulations of which the Labor Surplus Policy is one.

The actual set-aside of procurements and the award of contracts is done by contracting officers of the Federal agencies. Contracting officers screen procurements in excess of \$10,000 for set-aside potential by determining whether or not (1) procurements can be split into two economic production runs and (2) if one or more labor surplus area concerns are available to bid. As previously stated, the certified concern must match the low bid received on the portion of the contract open to unrestricted competition.

Also, contracting officers dealing with major prime contractors are to encourage these contractors to award subcontracts to certified eligible firms in labor surplus areas.

CHAPTER 2

IMPLEMENTATION OF THE LABOR SURPLUS POLICY--

HAS IT RECEIVED ADEQUATE EMPHASIS BY FEDERAL

AND STATE AGENCIES?

The Labor Surplus Policy is intended to aid economically distressed areas and the hardcore unemployed by awarding Federal contracts to eligible firms and requiring or encouraging these firms to hire disadvantaged persons. Thus, Federal dollars are to be distributed to localities in dire need, thereby alleviating chronic unemployment by creating new jobs. In recent years the procurement dollars spent and the number of people hired that are attributable to the Labor Surplus Policy have declined, and at the same time the Government procurement budget has increased significantly.

The emphasis given by the Federal and State agencies responsible for implementing the Labor Surplus Policy has been varied. Additionally, the prime contractors included in our review did not emphasize awarding subcontracts to labor surplus firms.

DECLINING LABOR SURPLUS SET-ASIDES AND DISADVANTAGED HIRES

From 1972 through 1976 the average total Government procurement expenditures amounted to \$52.7 billion. The average amount set aside for labor surplus firms in this period was \$253.8 million, or 0.48 percent of the total procurement expenditures. The following table shows the comparison for the 5-year period.

Five-Year Comparison of Total Government Procurement with Labor Surplus Set-asides

<u>Fiscal</u> <u>year</u>	<u>Total Government</u> <u>procurement</u>	<u>Labor surplus</u> <u>set-aside</u> <u>procurements</u>	<u>Set-aside</u> <u>procurement</u> <u>as a % of total</u>
(000 omitted)			
1972	\$45,204,005	\$243,493	0.53
1973	44,742,179	302,471	0.68
1974	48,602,391	286,936	0.59
1975	58,544,307	175,391	0.30
1976	66,407,577	260,537	0.39

In fiscal year 1973 the labor surplus certified firms reported hiring 97,500 people, 38,800 of which were disadvantaged hires. In 1976 25,900 of 65,200 people hired were disadvantaged hires. Over this 4-year period the number of disadvantaged hires declined by 23 percent. This same 4-year period saw unemployment climb from an average of 4.3 million in 1973 to 7.3 million in 1976, a 70-percent increase.

Participation by firms in labor surplus areas remained relatively constant despite the number of labor surplus areas increasing from 875 in 1972 to 1,140 in 1975 (an increase of 23 percent). The number of firms certified under the program increased by only 47, or about 4 percent (1,040 to 1,087) over the 4-year period 1973 to 1976.

FEDERAL IMPLEMENTATION

The Labor Surplus Policy places various implementing responsibilities on various agencies in the Federal Government. The following is a brief summary of the functions and efforts of the agencies involved in the Labor Surplus Policy.

Federal Preparedness Agency

The Labor Surplus Policy is managed under the auspices of the Federal Preparedness Agency, a subagency of GSA. The Federal Preparedness Agency has general oversight responsibility over the policy. However, it has not assigned oversight responsibility to any element of its organization and has not provided specific guidance to Federal and State agencies concerning the Labor Surplus Policy.

Surplus Manpower Committee

The Surplus Manpower Committee was created by Defense Manpower Policy No. 4 and is composed of representatives from the major Federal purchasing and manpower agencies. This committee is to advise the Federal Preparedness Agency on policies, procedures, and activities needed to carry out the purpose of the policy. We noted in our review that the Surplus Manpower Committee had not met since March 1974.

A proposed test for a total labor surplus set-aside initiated by the Office of Federal Procurement Policy, to be conducted by the Surplus Manpower Committee in 1976, has never been conducted. The test was intended to determine the feasibility of the Department of Defense (DOD) to make total labor surplus set-aside awards within statutory limitations.

We agreed to this test in the belief that it might be possible to develop information showing that for some procurements:

1. Prices outside labor surplus areas are not expected to be lower than total set-aside prices; analysis of recent sales prices for similar purchases would be used to make this prediction.
2. Any price differential resulting from an inability to accurately estimate prices outside labor surplus areas would be offset by savings resulting from a total rather than partial set-aside. (The economy of scale often results in lower prices for total procurement requirements under one contract than the combined price of set-aside and non-set-aside portions allowed under the Maybank Amendment.)

GSA has now arranged for the Federal Supply Service to determine whether and to what extent bids received solely from labor surplus area firms would be higher than bids received as a result of an unrestricted solicitation. In this way GSA hopes to obtain concrete information on any price differential the Government would be required to pay if procurements were totally set aside for labor surplus areas.

Department of Labor

The Department of Labor is responsible for identifying labor surplus areas, disseminating this data, certifying firms, and overseeing policy enforcement at the State level. There is no central point for coordinating the policy within DOL. Currently, the policy is implemented as a corollary function of the Employment and Training Administration in DOL. Moreover, DOL, which is responsible for classifying labor surplus areas and disseminating the data, has been so late in doing so that most Federal and State officials we interviewed told us that the data was of little use to them. Some agency officials advised they did not receive the data at all.

Defense Agencies

Within the Department of Defense, the Defense Logistics Agency has implemented the Labor Surplus Policy the most vigorously. Defense Logistics Agency managers have supported the policy by establishing goals for set-asides and the line

purchasing activities have met or exceeded the goals since 1975 as follows:

<u>Fiscal year</u>	<u>Labor surplus set-aside awards</u>	
	<u>Goal</u>	<u>Actual</u>
	(millions)	
1975	\$61.1	\$ 67.1
1976	72.2	117.4

Military labor surplus set-asides amounted to 0.41 percent of applicable Defense procurement spending in fiscal year 1976. (See app. II, History of Defense Participation in the Labor Surplus Policy.) The military services have set aside little for certified firms. In 1975 90 percent of the total labor surplus set-aside awards made by DOD were from the Defense Logistics Agency, and in 1976 the figure was 77 percent. Examples of the number and amount of set-asides made by four major military procurement activities we visited during this review follow:

<u>Purchasing activity</u>	<u>Labor surplus area set-asides</u>		
	<u>Fiscal years</u>	<u>Number of awards</u>	<u>Amount</u>
Naval Supply Center, Norfolk, Virginia	1966-76	1	\$ 24,900
Ships Parts Control Center, Mechanicsburg, Pennsylvania	1973-76	13	6,730,947
Tank-Automotive Readiness Command, Detroit, Michigan	1976	1	309,600
Aeronautical Systems Division, Wright-Patterson Air Force Base, Dayton, Ohio	1969-75	<u>20</u>	<u>7,098,000</u>
Total		<u>35</u>	<u>\$14,163,447</u>

The Ships Parts Control Center was the only one of the four buying activities that had labor surplus area set-aside goals. Prior to the goals it had no labor surplus set-asides. It is recognized, however, that many of the items purchased are peculiar to a military service and may not be as amenable to labor surplus area set-asides as Defense Logistics Agency items.

Civil Agencies

In 1976 civil executive agencies reported that \$107.5 million in contracts were set aside and awarded to labor surplus area firms. These set-asides represented 0.6 percent of the almost \$18 billion of civilian executive agency procurement expenditures in that year. GSA and the Department of the Interior were the two largest awarders of labor surplus set-asides, \$48 million and \$30 million, respectively.

Officials of the National Aeronautics and Space Administration and the Energy Research and Development Administration said that their agencies had set aside nothing for labor surplus area firms during fiscal year 1976. The agencies explained their position by noting that the majority of their procurements involved research and development contracts and funding for research plants, which are generally unsuited for labor surplus area set-asides; i.e., they cannot be divided into two or more economic production runs.

Participation by the other agency visited during our review, the Veterans Administration, was minimal. (See app. III for a listing of all civilian executive agencies' participation in fiscal year 1976.)

STATE AGENCY IMPLEMENTATION

The six State Employment Offices we reviewed emphasized the Labor Surplus Policy only to a limited extent. Three of the 6 were among both the 10 most active States in the number of certified firms and in the 15 most active States in the number of disadvantaged workers hired. Generally, responsibility for the policy was one of the lesser corollary duties assigned to employees. Often this assignment was to a single employee who knew little about the objectives of the Labor Surplus Policy and how it should be implemented.

As illustrated in table 1, States were hampered in their efforts and ability to implement the policy because they (1) did not receive timely information from DOL which identified labor surplus areas and (2) were not adequately funded to provide personnel, publicize the policy, assist firms in coordinating with Federal buyers, or monitor certified firms for their compliance with requirements of the policy.

Although the States have been hampered in their efforts to implement the policy, improvements may be possible by publicizing its advantages. In 1971 Pennsylvania took the initiative, without Federal assistance, and mailed circulars explaining the benefits and requirements of the Labor Surplus Policy to 14,000 firms in the State. Within 6 months the

Table 1

Comparison of State Responses to

Selected Labor Surplus Policy Questions

<u>Characteristic</u>	<u>California</u>	<u>Michigan</u>	<u>Ohio</u>	<u>Pennsylvania</u>	<u>Texas</u>	<u>Virginia</u>
Received timely information to identify labor surplus areas	No	No	No	No	No	No
Funded to implement the policy	No	No	No	No	No	No
Publicized the policy	No	No	No	Some	No	No
Helped certified firms coordinate with Federal buyers	No	No	No	No	No	No
Monitored certified firms: for compliance with hiring and reporting requirements, recalled certificates from noncomplying firms	No	No	No	No	No	No
Assigned employee(s) who: were responsible for Labor Surplus Policy as primary duty	Yes	No	No	No	No	Yes
had been trained on how policy should be implemented,	No	No	No	No	No	No
had good working knowledge of policy objectives,	No	No	No	No	No	No
had knowledge of items set aside by Federal buyers	No	No	No	No	No	No

number of certified firms increased by nearly 75 percent, from 54 to 92. No action has been taken since 1971, but Pennsylvania has remained among the highest in terms of number of certified concerns and disadvantaged workers hired.

Confusion and lack of knowledge about the policy

We found some confusion and lack of knowledge concerning the provisions of the Labor Surplus Policy. At the locations we reviewed, we found that:

- There was a general lack of knowledge about the policy at the State and local office levels in Ohio.
- Local employment office officials in Michigan were not familiar with the policy.
- DOL regional officials in Texas and some firms thought that the policy only applied to DOD contracts.
- A local employment service office official in Pennsylvania wrongfully told certified firms they did not have to hire disadvantaged workers until they received a labor surplus contract. State officials in California were under the same impression.
- State officials in California believed that certified labor surplus firms did not have to match the low bid on the non-set-aside portion, a violation of the Maybank Amendment. They thought a labor surplus firm would be awarded a contract if its bid was within 25 percent of the unrestricted award.

DOD PRIME CONTRACTORS' PARTICIPATION

For contracts between \$10,000 and \$500,000, prime contractors are encouraged to subcontract with labor surplus area concerns. Specifically, the contractor is required to use his "best efforts" to place subcontracts with concerns which will perform work in labor surplus areas where this can be done consistent with the efficient performance of the contract at prices no higher than are obtainable elsewhere. For contracts in excess of \$500,000 and which offer substantial subcontracting opportunities, procurement regulations require inclusion of a "labor surplus area subcontracting program" clause. Under this clause, the contractor agrees to establish and conduct a labor surplus area program, and

--appoint a labor surplus liaison officer and

--keep records showing procedures for compliance with the clause.

At three large DOD prime contractors we reviewed, subcontracts had not been set aside for eligible labor surplus firms. The three contractors were performing on more than \$4.6 billion in Federal procurements. These prime contractors supply the Government with complicated weapons systems and equipment.

From the prime contractors' standpoint, dividing a subcontract into two parts, as required by the Labor Surplus Policy, imposes additional costs on them which are not provided for in their prime contract.

CHAPTER 3

OTHER AREAS WHICH IMPACT ON THE LABOR SURPLUS POLICY

The Labor Surplus Policy is one of a number of socio-economic programs which have been incorporated into the Government procurement process. These programs in some cases compete for procurements. Also, the present definitions of labor surplus areas are very broad.

COMPETING SOCIOECONOMIC PROGRAMS

Federal procurements that can be set aside for certified labor surplus firms have competition from other socioeconomic policies and programs, such as

- the Small Business Administration program and
- legislated procurements, i.e., those that must go to Federal Prison Industries, National Industries for the Blind, National Industries for the Severely Handicapped, and Indian Industries.

The most successful of the competitive programs is the small business program. While there is competition between labor surplus and small business programs, frequently the objectives of the Labor Surplus Policy are accomplished through the small business program, because many small businesses are located in labor surplus areas. Therefore, a large number of the labor surplus set-asides are granted to firms that are small businesses. The following table shows the extent of set-asides for each purpose made in fiscal year 1975 by GSA and the Defense Logistics Agency.

	<u>Set-asides by preferences</u>		
	<u>Small business</u>	<u>Labor surplus</u>	<u>Small business greater by a factor of:</u>
	(000,000 omitted)		
General Services Administration	\$141	\$32	4.4
Defense Logistics Agency	<u>463</u>	<u>67</u>	6.9
Total	<u>\$604</u>	<u>\$99</u>	6.1

The opinion among Federal procurement officials and Small Business Administration representatives interviewed was that significant increases in labor surplus preference awards would decrease small business preference awards because both programs compete for many of the same contracts.

Illustrative of the conflict between labor surplus preference awards versus small business preference awards is the controversy over priorities. In an effort to clarify these priorities, GSA issued a regulation to state that labor surplus area set-asides have first preference in all cases. On November 10, 1975, this regulation was suspended because as GSA noted:

"The regulation published in the Federal Register (40 FR 48326, October 14, 1975) was issued to clarify the intent of Subparts 1-1.7 and 1-1.8 regarding the relationship of small business and labor surplus area set-asides. Following publication in the Federal Register, complaints were received from members of Congress, Small Business Committee of the House of Representatives, and the Small Business Administration. In addition, it became apparent that the prior provisions of the subpart were being widely implemented in a manner contrary to the intent of the provisions as they pertain to preference for labor surplus areas. However, the clarification of the intent could result in a significant change in operations which would result in a substantial dislocation in the current awarding of Government contracts. After the matter was reviewed, it was concluded that such a dislocation would be undesirable, pending a study of the related facts to determine what the policy should be regarding the relationship of small business and labor surplus area set-asides. The matter will be studied by the Interagency Procurement Policy Committee, and a final decision will be rendered by the Office of Federal Procurement Policy. Accordingly, a suspension of the regulation is desirable." (Underscoring added.)

A final decision is still pending on this issue from the Office of Federal Procurement Policy.

Other programs for helping disadvantaged persons

Since the birth of the Labor Surplus Policy in 1950, programs that deal directly with the employability of

disadvantaged persons have come into existence; for example, the Comprehensive Employment and Training Act of 1973. The purpose of this act is to establish a system of Federal, State, and local programs to provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons, and to insure that training and supporting services lead to maximum opportunities and enhanced participant self-sufficiency.

The act requires the use of services and facilities from Federal, State, and local agencies, such as State employment services, State vocational education and vocational rehabilitation agencies, area skill centers, local educational agencies, postsecondary training and education institutions, and community action agencies. Service and facilities of private business, labor organizations, private employment agencies, and private educational and vocational institutions may also be used.

BROAD DEFINITIONS FOR LABOR SURPLUS AREAS

Under the Labor Surplus Policy, the Department of Labor is responsible for establishing and defining labor surplus area categories and disseminating the results. DOL accomplishes these requirements through its Area Trends in Employment and Unemployment publication, in which it identifies three labor surplus area categories as shown:

<u>Labor surplus area</u>	<u>Unemployment problem</u>
Sections of concentrated unemployment or underemployment	Pockets of unemployment or underemployment, particularly in minority enclaves
Areas of substantial unemployment	Recent high unemployment
Areas of persistent unemployment	Chronic high unemployment

The third category appears to be the most meaningful classification in terms of the policy.

Sections of concentrated unemployment or underemployment

This classification includes all places participating in DOL's Concentrated Employment Program, all target

areas under the Model Cities Program of the Department of Housing and Urban Development, all areas that were identified for Federal assistance to provide public service employment under the Emergency Employment Act of 1971, and Indian reservations with a population of 4,000 or more. Some of these areas were determined by Federal programs that have either ceased to exist or have been absorbed by other programs. The problem with this classification is that it is fixed; it does not reflect changing employment conditions.

Areas of substantial unemployment

DOL classifies an area as having substantial unemployment when 6 percent or more of its labor force is unemployed (less seasonal and temporary factors) and probably will remain so for at least 2 more months. While this criterion can focus on target areas when the Nation enjoys favorable economic conditions, it loses its ability to identify target areas when the national economy is in a slump and almost all areas qualify.

In December of 1975 122 of 150 major labor market areas in the country, or 81 percent, qualified in this category. Nearly the entire Nation qualified, obscuring those areas most severely affected.

Areas of persistent unemployment

This is comprised of three sub-categories:

<u>Sub-categories</u>	<u>Area unemployment threshold percent</u>	<u>Relative to national unemployment average</u>	
		<u>Percent greater</u>	<u>Preceding calendar years</u>
First, or	6	50	3 of 4
Second, or	6	75	2 of 3
Third	6	100	1 of 2

The first subcategory qualifies as having persistent unemployment if the area experienced 6 percent or more unemployment in the most recent year and if the unemployment rate was 50 percent higher than the national average for 3 of the 4 preceding calendar years. In this regard, in December 1975 only 9 of 150 major labor market areas--6 percent--were classified as having persistent unemployment.

CHAPTER 4

CONCLUSIONS AND RECOMMENDATIONS,

AGENCY COMMENTS, AND OUR EVALUATION

CONCLUSIONS

The Labor Surplus Policy has undergone a transformation from a national emergency, defense-oriented, mobilization policy to a socioeconomic policy directed toward helping economically distressed areas and employing disadvantaged people. Recent years have seen a decline in an already small percentage of procurements set aside for labor surplus firms and in the number of disadvantaged persons hired. These decreases have come at times when unemployment in the United States has been increasing or remaining at a very high level.

The Labor Surplus Policy has its advantages and disadvantages, as do other socioeconomic programs imposed on the procurement process. The advantages of the policy are obvious--to provide a stimulus through Government contracts to alleviate economic problems related to high concentrations of unemployment in certain geographical areas; and to provide job opportunities for disadvantaged persons, thereby enhancing their chances to become productive parts of society.

The principal disadvantage is that it can adversely affect competition. Free and open competition is the best method of assuring that goods and services are obtained at the lowest price. Through this competitive process any qualified supplier can compete and a low bidder is selected. The winner is to provide the product or service at the lowest overall cost to the Government. By restricting procurement sources in whole or in part to those available in labor surplus areas for selected procurement actions, this ideal of free and open competition will not be fully attained.

Another disadvantage is that many procurements are not readily severed into two "economic production runs," as the Labor Surplus Policy requires. Examples are procurements for items

--for which there is only one source and

--that are urgently needed.

RECOMMENDATIONS

In view of the questionable effectiveness of the Labor Surplus Policy in recent years, we recommend that the Congress either strengthen the policy by

- writing the Labor Surplus Policy into law to give it a statutory base;
- placing it under the purview of one executive department, which would have final responsibility for coordination and implementation, focusing the policy on those areas most critically affected by unemployment, and developing realistic goals for procuring agencies as an impetus for better performance; and
- providing for total labor surplus set-asides if they are determined to be feasible and in the best interests of the Government;

or rescind the policy and rely upon existing socioeconomic programs to direct Federal procurements or other Federal funds into areas of high unemployment.

AGENCY COMMENTS AND OUR EVALUATION

The agency comments are contained in appendix V. The following is a discussion of the agencies' major comments on our proposed report and our evaluation of these comments.

Department of Labor

The Department of Labor generally concurred with our findings and recommendations except for a few minor differences.

DOL has been working on a series of proposals to the Surplus Manpower Committee for changes in the Labor Surplus Policy. It is also taking steps to revise some of its internal policies on the basis of suggestions in our proposed report.

DOL did not concur with our suggestion that the Labor Surplus Policy should insure that the program focuses on persistent areas of unemployment. According to DOL, the "persistent" classification is unrealistic under the present high level of unemployment. DOL is currently developing a new definition to combine the "substantial" and "persistent" classifications. We believe that if DOL

focuses its definition on those areas most critically affected by unemployment, it will meet the intent of our suggestion.

DOL also did not agree with our contention that the classification of labor surplus areas has been late, e.g., 6 months to 1 year. According to DOL, it maintains the classifications on a current basis and only the issuance of the publication "Area Trends," which lists all labor surplus areas and their classification, has been delayed.

While DOL may be maintaining its classification on a current basis, the information is not getting out to the people who need it. The State employment offices we visited stated that they did not receive timely information on identified labor surplus areas. (See p. 10.)

Department of Defense

The Department of Defense commented that our statistics did not take into consideration that DOD procurements less than \$10,000 and DOD construction and petroleum procurements do not apply to the labor surplus set-aside program. We revised our statistical data, shown on page 9 and in appendix II, to eliminate the DOD procurements not subject to the Labor Surplus Policy.

General Services Administration

The General Services Administration stated that our proposed report, by concentrating on the small percentage of procurements being set aside for labor surplus area concerns, fails to consider other aspects of the policy, such as the encouragement of contractors to locate in areas of surplus labor and efforts of agencies to place negotiated contracts in areas of surplus labor.

We believe that the main emphasis of the Labor Surplus Policy is the placement of procurements with labor surplus concerns, which the report addresses. With regard to the agencies' efforts to place negotiated contracts in areas of surplus labor, we were not made aware of any special agency effort to do this. We are aware that contracts that were previously not listed as going to labor surplus areas went to labor surplus areas because the high level of unemployment in the United States over the past 2 years created a situation where almost every area in the country was a labor surplus area.

GSA also commented that our report misstated the purpose of the policy:

"The basic purpose of DMP-4 has been, and still is, the broadening of the skill base to provide for greater mobilization readiness. In recent years some have interpreted that there has been a shift from a defense-oriented policy to a policy more oriented to the socioeconomic problems of the nation. However, the basic purpose as stated remains unchanged."

We believe that Defense Manpower Policy Number 4 has always had socioeconomic implications even from its beginning. While defense readiness may have been the primary reason during the Korean conflict, the policy also directed procurements to areas and contractors strained by economics--unemployment and idle facilities. The 1967 revision was a definite strengthening of the socioeconomic purpose behind the policy to alleviate unemployment problems in urban areas and create job opportunities for disadvantaged persons. We believe our report accurately describes a major objective of the policy today.

GSA said of the civilian agency effort expended on labor surplus set-asides being treated on an "on request basis," that there has been continuing pressure for small business set-asides which have limited the use of set-asides for labor surplus areas.

We believe that their comments support the contention that the Labor Surplus Policy receives competition from stronger based, more widely publicized socioeconomic programs, such as the small business program.

Small Business Administration

The Small Business Administration agreed with the basic findings in our report and subscribed to the implementation of the recommendation to rescind the Labor Surplus Policy. The Small Business Administration also felt that a middle position might be to increase the emphasis on procurement regulations which give priority to combined small business and labor surplus area set-asides.

Energy Research and Development Administration

The Energy Research and Development Administration commented that in addition to potential conflict with the

small business program, the Labor Surplus Policy also complements small business program objectives.

We agree that both the small business and labor surplus objectives are satisfied when a procurement goes to a small labor surplus firm. However, we believe that the small business program overshadows the Labor Surplus Policy because of the support and publicity it receives.

National Aeronautics and Space Administration

The National Aeronautics and Space Administration and the Energy Research and Development Administration commented that their procurement requirements seldom meet the severability requirement of labor surplus area set-aside procedures.

Veterans Administration

The Veterans Administration agreed with the findings in the report. It supported the recommendation to rescind the Labor Surplus Policy and rely upon existing socioeconomic programs to direct Federal procurements into areas of need.

Department of the Interior

The Department of the Interior provided verbal comments on the report. It agreed with our findings and conclusions.

CHAPTER 5

SCOPE OF REVIEW

We wanted to find out whether the Labor Surplus Policy, in effect for about 25 years, was working; what problems it had, if any; and whether it could be improved. To this end we examined records and talked with officials from the following Federal agencies:

- General Services Administration.
- Federal Preparedness Agency.
- Department of Labor.
- Department of Defense.
- Department of Commerce.
- Small Business Administration.
- National Aeronautics and Space Administration.
- Energy Research and Development Administration.
- Veterans Administration.
- Department of the Interior.

We worked at State employment security agencies in California, Michigan, Ohio, Pennsylvania, Texas, and Virginia and at two local employment service offices in each State. Additionally, we visited a total of 15 firms in the labor surplus areas within these States.

Also, we performed work at the following Federal procurement activities:

- Defense Industrial Supply Center, Philadelphia, Pennsylvania.
- Defense General Supply Center, Richmond, Virginia.
- Defense Construction Supply Center, Columbus, Ohio.
- Ships Parts Control Center, Mechanicsburg, Pennsylvania.

--Aeronautical Systems Division, Wright-Patterson
Air Force Base, Dayton, Ohio.

--Naval Supply Center, Norfolk, Virginia.

--Tank-Automotive Readiness Command, Detroit, Michigan.

We also visited three prime contractors: Chrysler Corporation, Detroit, Michigan (Army prime contractor); Newport News Shipbuilding and Drydock Company, Newport News, Virginia (Navy prime contractor); and Detroit Diesel-Allison, Division of General Motors, Indianapolis, Indiana (Air Force and Army prime contractor). The period covered for the review was June 1976 to December 1976.

LABOR SURPLUS IMPLEMENTATION AS REPORTED
BY THE DEPARTMENT OF LABOR

<u>Federal regions</u>	<u>FY 1976</u>	
	<u>Average number of certified firms</u>	<u>Disadvantaged new hires</u>
Boston	110	1,942
New York	281	4,031
Philadelphia	141	1,368
Atlanta	116	3,378
Chicago	117	3,904
Dallas	73	3,855
Kansas City	37	1,151
Denver	10	278
San Francisco	184	5,011
Seattle	<u>18</u>	<u>951</u>
Total	<u><u>1,087</u></u>	<u><u>25,869</u></u>

HISTORY OF DEFENSE PARTICIPATION IN THE LABORSURPLUS POLICY 1952-76

<u>Fiscal year</u>	Total DOD procurement (note a)	Preference awards (note b)	Percent of all Defense contracts
(000,000 omitted)			
1952	\$38,479	\$ 41.6	0.11
1953	26,994	23.0	0.09
1954	10,632	8.5	0.08
1955	12,590	47.8	0.38
1956	14,320	4.2	0.03
1957	15,442	10.8	0.07
1958	18,725	36.6	0.20
1959	19,609	96.0	0.49
1960	18,439	22.3	0.12
1961	20,176	50.5	0.25
1962	22,964	106.1	0.46
1963	23,081	137.8	0.60
1964	23,048	172.9	0.75
1965	22,155	109.0	0.49
1966	30,824	98.2	0.32
1967	36,121	57.8	0.16
1968	35,921	108.4	0.30
1969	33,743	185.2	0.55
1970	28,623	135.5	0.47
1971	27,633	99.3	0.36
1972	30,093	208.8	0.69
1973	28,122	117.2	0.42
1974	30,086	103.8	0.35
1975	33,756	74.4	0.22
1976	36,561	153.0	0.41

Source: Department of Labor compilation from Department of Defense, OASD (Comptroller, Directorate for Information Operations)

a/Excludes work performance outside the United States, includes civil functions. Excludes prime contracts under \$10,000. Excludes construction and petroleum awards not subject to Labor Surplus Policy.

b Prime contract awards to large firms certified for preference under provisions of Defense Manpower Policy No. 4 includes value of awards to subcontractors receiving a substantial proportion of a prime contract award received by certified prime contractor. Does not include awards under \$10,000 or awards to small business with DMP-4 preference. Values are net values.

PROCUREMENT BY CIVILIAN EXECUTIVE AGENCIES, PERIOD JULY 1, 1975 - JUNE 30, 1976
 (\$ IN THOUSANDS)

OFFICE	TOTAL PROCUREMENT						PROCUREMENTS AWARDED BY REPORTING OFFICE						Other Agency Contracts	
	Total Amount	From Small Business		Formally Advertised		Negotiated		Total Amount	From Small Business		Fed. Sup Sched. & Other CMA Contracts		Total Amount	Percent
		Amount	Percent	Amount	Percent	Amount	Percent		Amount	Percent	Amount	Percent		
TOTAL	\$17,978,577	\$4,326,716	24.1	\$3,635,381	32.2	\$12,366,752	\$2,559,062	22.3	\$1,277,713	\$239,974	18.8	\$698,731	\$156,008	22.3
Executive Office of the President	2,996	139	04.0	57	57	1,419	62	04.4	1,419	62	04.4	1,420	1,420	48.6
Office of Management and Budget	916	728	79.5	30	30	843	665	78.9	16	6	37.5	1,420	1,420	100.0
Departments														
Department of Agriculture	352,756	240,724	68.2	74,852	21.2	210,464	166,999	79.3	54,972	16,199	27.6	6,735	1,894	27.7
Department of Health, Education & Welfare	1,729,292	315,020	17.9	42,960	2.5	1,362,310	257,445	16.5	136,922	27,408	20.1	27,964	7,504	26.8
Department of Housing and Urban Development	1,257,103	142,260	11.6	31,726	2.5	1,048,007	85,201	8.1	8,536	3,420	39.8	46,789	7,078	15.1
Department of the Interior	2,073,701	481,092	23.2	414,338	20.0	646,853	58,719	9.1	75,336	21,687	28.7	46,982	2,535	5.4
Department of Justice	159,666	19,173	12.0	5,992	3.9	109,640	13,642	12.4	14,065	4,916	35.0	6,177	2,331	37.6
Department of Labor	41,953	13,892	33.1	2,420	5.7	25,613	9,292	36.3	13,871	3,008	21.7	45	42	85.7
Department of State	688,108	269,611	40.4	182,386	26.6	405,569	150,278	37.1	50,761	15,293	30.1	29,392	7,326	25.0
Department of the Treasury	251,349	69,633	27.7	84,312	33.6	90,721	25,310	27.9	60,710	9,438	15.5	23,408	16,464	69.9
Independent Establishments														
Administrations														
Community Services Administration	1,003	309	30.8	25,994	25.9	638	234	36.7	341	55	16.1	24	10	41.7
Research and Development Administration	4,183,707	520,208	12.4	9,903,522	23.7	3,901,932	504,991	12.9	9,484	1,298	13.5	245,272	383	0.2
Energy Research Administration	51,509	16,429	31.5	27,085	52.6	10,724	6,894	64.3	753	250	33.2	12,149	19	0.2
National Science Foundation	1,708,499	698,493	40.9	649,237	37.8	637,893	297,222	46.3	372,306	188,110	50.5	16,063	29,235	181.3
National Aeronautics & Space Administration	2,910,046	218,375	7.5	54,280	2.5	2,796,287	195,001	7.0	69,499	11,507	16.6	284	284	100.0
National Endowment for the Arts	131,000	3,391	2.6	1,084	0.8	8,084	4,995	61.8	1,920	396	20.6	284	284	100.0
Small Business Administration	1,376,143	643,780	46.8	301,705	21.9	684,813	368,679	53.8	239,326	51,830	21.7	130,099	79,686	53.5
Veterans Administration	10,526	4,873	46.3	7,463	70.9	9,000	4,000	44.4	1,173	281	24.0	353	192	54.4
Agency for International Development	241,438	7,590	3.1	21,828	9.0	213,428	6,224	2.9	10,922	318	0.3	3,137	126	3.9
U. S. Environmental Protection Agency	23,087	14,048	60.8	3,099	13.4	16,046	11,216	69.9	3,701	710	18.9	198	198	100.0
U. S. Army Control & Disarmament Agency	1,296	201	15.5	1,021	78.8	1,021	201	19.7	2	2	0.2	275	275	100.0
Boards														
Civil Aeronautics Board	1,402	294	21.0	60	4.3	663	177	26.6	677	114	16.8	3	3	100.0
Federal Reserve Board	4,455	2,036	45.7	2,994	67.2	3,064	1,424	46.5	1,016	485	47.8	375	126	33.6
National Labor Relations Board	4,712	372	7.9	135	2.9	135	41	30.3	78	152	182.0	608	373	61.4
National Mediation Board	942	270	28.7	481	51.1	481	213	43.9	461	59	12.8	2	2	100.0
U. S. Railroad Retirement Board	34	26	76.5	12	35.3	12	4	33.3	1	0	0.0	22	22	100.0
Commissions														
American Battle Monuments Commission	2,603	343	13.2	671	25.8	2,022	499	24.7	1,651	160	9.7	22	22	100.0
Commodity Futures Trading Commission	4,039	322	8.0	42	1.0	3,783	303	8.0	520	5	1.0	785	285	36.3
Federal Power Commission	4,787	1,378	28.8	931	21.6	1,171	618	52.8	2,645	467	17.7	70	2	2.9
Federal Trade Commission	7,137	5,427	76.2	6,248	87.6	4,741	3,711	78.3	2,319	1,114	48.0	3	3	100.0
Indian Claims Commission	1,119	5,427	485.3	6,372	569.4	1,565	683	43.7	3,105	123	3.9	274	11	3.9
Interstate Commerce Commission	1,195	2,721	227.7	142	11.9	1,153	582	50.5	1,305	153	11.7	274	11	3.9
National Capital Planning Commission	13,756	2,231	16.2	571	4.2	11,288	1,272	11.3	1,46	9	0.6	375	126	33.6
Nuclear Regulatory Commission	5,825	2,972	51.0	323	5.5	2,778	1,914	68.9	2,654	684	25.4	808	373	46.2
United States Civil Service Commission	601	169	28.1	381	63.4	198	76	38.4	383	35	17.7	2	2	100.0
United States International Trade Commission	791	278	35.1	789	99.8	196	196	100.0	502	62	12.4	4	4	100.0
Other Independent Establishments														
Export-Import Bank of Washington	1,172	68	5.8	136	11.6	136	63	46.3	996	82	8.2	2	2	100.0
National Endowment for the Arts	118,701	3,172	2.6	117,343	9.9	1,158	1,158	100.0	1,152	60	5.2	26	26	100.0
National Science Foundation	59,581	32,849	55.1	36,096	60.4	19,381	15,503	79.5	5,058	933	18.4	831	19	2.3
Panama Canal Company	39,348	24,594	62.5	8,117	20.6	19,963	15,179	76.0	10,461	1,813	17.3	4	4	100.0
Smithsonian Institution	1,887,926	313,322	16.6	1,349,924	71.6	267,409	60,397	22.6	144	58	40.9	2	2	100.0
Tennessee Valley Authority	559	466	83.4	24	4.3	397	93.4	23.3	124	58	46.8	4	4	100.0

PROCUREMENT BY CIVILIAN EXECUTIVE AGENCIES, PERIOD JULY 1, 1975 - JUNE 30, 1976
(IN THOUSANDS)

PART II - STATISTICS ON RELATED TYPES OF PROCUREMENT (BREAKDOWN OF PROCUREMENTS REPORTED IN PART I)

OFFICE	SMALL BUSINESS SET ASIDES		PROCUREMENT IN LABOR SETASIDE AREAS						PART III - SMALL BUSINESS SUBCONTRACTING PROGRAM					
	Construction	Other	Under Preference Procedures		Other Concerns		Under Non-Preference Procedures		Procurement of Construction		From Educational Institutions and Non-Profit Organizations		Amount of Subcontract & Purchasing from Small Businesses under Subcontracting Program	
			Eligible Concerns	Total Amount	From Small Business Amount	Total Amount	From Small Business Amount	Total Amount	From Small Business Amount	Total Amount	Total Amount	From Small Business Amount	Other	
	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	
Total	\$460,215	\$433,313	\$96,587	\$28,230	\$20,930	\$5,308	\$6,554,054	\$954,105	\$1,743,637	\$1,117,333	\$2,236,121	\$1,111,108	\$1,077,913	\$723,395
Executive Office of the President														
Office of Management and Budget														
Office of Telecommunications Policy														
Departments														
Department of Agriculture	72,857	97,417	196	196	196	196	38,013	31,510	93,416	87,422	3,987	1,517	1,487	20
Department of Commerce	7,459	23,349	283	283	272	217	52,175	11,622	7,225	7,242	45,130			
Department of Health, Education & Welfare	12,919	8,702	1,880				373,334	87,047	90,534	72,371	833,964			
Department of Housing & Urban Development							270,414	145,306	462,989	197,012	42,585			
Department of the Interior	101,876	14,752	23,119			86	14,897	6,287	1,624	4,197	4,532			21,646
Department of Justice							28,442	1,738						
Department of Labor							155,796	48,486	126,378	91,068	44,505			5,025
Department of Transportation	97,072	21,622	348	232	1,245	685	7,066	3,238	1,260	1,215				
Department of the Treasury														
Independent Establishments														
Administrations														
Community Services Administration														
Conservation Administration														
Foreign Credit Administration														
General Services Administration	34,298	39,293					2,168,458	18,386	386,754	302,176	66,748			154,754
Health Services Administration														
National Energy Administration														
General Services Administration	49,074	146,422	41,957	3	4,157	1,214	423,531	275,277	139,323	67,983	346,588			2,454
National Labor Relations Board	18,982	47,795					2,214,381	141,946	94,292	32,262				209,888
National Credit Union Administration														
Small Business Administration	103,714	51,133	1,000	447	4,279	1,945	72,815	39,276	214,739	149,305	1,996			9,898
Veterans Administration														
Agencies														
Action		247					259	170	291	291	1,915			
Agency for International Development		2,152					27,431	9,331	6,708	6,708	139,192			1,330
Environmental Protection Agency		684									24,525			
U.S. Forest Service		152					932	176	31	31	345			
U.S. Army Control & Disarmament Agency														
Source														
Civil Aeronautics Board														
Civil Service Commission														
National Labor Relations Board														
National Labor Relations Board														
National Mediation Board														
U. S. Railroad Retirement Board														
Commissions														
American Battle Monuments Commission														
Commodity Futures Trading Commission														
Patent and Trademark Office														
Product Trade Commission														
Indian Claims Commission														
International Boundary & Water Comm.														
International Commission on Antarctica														
National Capital Planning Commission														
Nuclear Regulatory Commission														
Securities and Exchange Commission														
U.S. Trade Representative														
United States International Trade Commission														
Other Independent Establishments														
Export-Import Bank of Shipping Co.														
U.S. Information Council for the Americas														
National Science Foundation														
Pharmaceutical Research and Manufacturers of America														
Protective Services System														
Transportation Safety Board														
Transportation Safety Board														
National Gallery of Art														

COPY

Defense Manpower Policy No. 4

DMP 4--PLACEMENT OF PROCUREMENT
AND FACILITIES IN SECTIONS AND
AREAS OF HIGH UNEMPLOYMENT

1. Introduction. Success of the defense program depends upon efficient use of all our resources, including manpower and facilities, which are preserved through practice of the skills of both management and workers.

A primary objective of Federal manpower policy is to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers, thus assisting in the maintenance of economic balance and employment stability. When large numbers of workers move to already tight areas, heavy burdens are placed on community facilities--schools, hospitals, housing, transportation, utilities, etc. On the other hand, when unemployment develops in certain areas, unemployment compensation costs increase and plants, tools, and workers' skills remain idle and unable to contribute to our defense program.

2. Purpose. It is the purpose of Defense Manpower Policy No. 4 to direct attention to the potentialities of sections of concentrated unemployment or underemployment and of areas of persistent or substantial labor surplus for the placement of procurement contracts or the location of new plants or facilities, and to assign responsibilities to specified officials of the Government to carry out the policy stated below.

3. Policy. It is the policy of the Federal Government to encourage the placing of contracts and facilities in sections of concentrated unemployment or underemployment and in areas of persistent or substantial labor surplus with preference being given in accordance with regulations prescribed by the Secretary of Labor in making the best use of their available resources in order to achieve the following objectives:

(a) To preserve management and employee skills necessary to the fulfillment of Government contracts and purchases;

(b) To maintain productive facilities;

(c) To improve utilization of the Nation's total manpower potential by making use of the manpower resources of each area;

(d) To help assure timely delivery of required goods and services and to promote readiness for expanded efforts by locating procurement where the needed manpower and facilities are fully available.

4. Implementation. By virtue of the authority vested in me by Executive Order No. 10480 and Executive Order No. 11051, as amended, and to carry out the purpose and policy objectives set forth above, the following assignments of responsibilities are made to the specified officials of the Government:

(a) The Secretary of Labor shall:

(1) Classify sections of concentrated unemployment or underemployment, and areas having a persistent or substantial surplus of labor under standards to be established by the Secretary of Labor.

(2) In cooperation with State and local authorities, provide labor market data and related economic information in efforts to assist in the initiation of industrial expansion programs in these areas.

(3) Identify skills which are in surplus supply within such sections and areas and make this information available to firms requiring such skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries; and, in collaboration with other government agencies, make assistance available to area institutions and manpower users in developing on-the-job apprentice or other training programs for developing skills of the workforce.

(5) Certify employing establishments which have agreed to perform contracts in or near sections of concentrated unemployment or underemployment and which have agreed to comply with regulations of the Secretary of Labor with respect to the employment of disadvantaged applicants.

(6) Prescribe regulations establishing the order of preference in which procurement contracts shall be awarded with respect to sections of concentrated unemployment and underemployment and areas of persistent or substantial labor surplus.

(b) All procurement agencies shall:

(1) Use their best efforts to award negotiated procurement contracts to contractors who will perform a substantial proportion of the production on those contracts within or near sections of concentrated unemployment or underemployment or within labor surplus areas, giving preference to contractors in accordance with regulations prescribed by the Secretary of Labor to the extent that procurement objectives will permit; Provided, That in no case shall price differentials be paid for the purpose of carrying out this policy.

(2) Where deemed appropriate, set-aside portions of procurements for negotiations at prices no higher than those paid on the balance of these procurements exclusively with firms which have agreed to perform or cause to be performed a substantial proportion of the production on these contracts within or near sections of concentrated unemployment or underemployment or within labor surplus areas, giving preference to firms in accordance with regulations prescribed by the Secretary of Labor: Provided further, That firms which have agreed to perform in areas not meeting the minimum size qualifications for classification by the Secretary of Labor shall be eligible for participation in set-asides, if these firms submit a certificate issued by the Secretary of Labor that a persistent or substantial labor surplus exists in the area in accordance with standards and procedures prescribed by the Secretary of Labor.

(3) Assure that firms that have agreed to perform contracts in or near sections of concentrated unemployment or underemployment or within labor surplus areas that are on appropriate bidders' lists will be given the opportunity to submit bids or proposals on all procurements for which they are qualified. Whenever the number of firms on a bidders' list is excessive, there will be included a representative number of firms from labor surplus areas.

(4) In the event of tie-bids or offers on any procurement, award the contract to the firm which has agreed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas by incurring costs on account of production or manufacturing in such sections or labor surplus areas (by itself or its first-tier subcontractors) that amount to a substantial proportion of the contract price, giving such preference as the Secretary of Labor may by regulation prescribe.

(5) Encourage prime contractors to award subcontracts to firms that have agreed to perform a substantial

proportion of the production on those subcontracts in or near sections of concentrated unemployment or underemployment or in labor surplus areas.

(6) The preferential actions described in this policy shall be in addition to other such actions to which firms may be entitled because of performance in substantial labor surplus areas, such as additional preference under the "Buy American Act."

(7) Cooperate with the other agencies listed herein in achieving the objectives of this policy.

(c) The Secretary of Commerce shall:

(1) In cooperation with State development agencies, the Secretary of Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist employing establishments, certified in accordance with sec. 4 (a)(5) above, which have agreed to perform contracts in or near sections of concentrated unemployment or underemployment and manufacturers in areas of persistent labor surplus in obtaining Government procurement business by (a) providing such firms with timely information on proposed Government procurement; (b) maintaining current information on the manufacturing capabilities of such firms with respect to Government procurement and disseminating such information to Federal procurement agencies.

(2) Urge firms planning new production facilities (where Federal assistance or interests are involved) to consider the industrial location advantages of sections of concentrated unemployment or underemployment and labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in such sections or areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(d) The Administrator of the Small Business Administration shall make available to small business concerns in sections of concentrated unemployment and underemployment and labor surplus areas all of its services, endeavor to insure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set-asides with Government procurement agencies.

(e) There is hereby continued in operation within the Office of Emergency Planning the Surplus Manpower Committee:

(1) This Committee shall be chaired by the Director of the Office of Emergency Planning, or his designee, and shall include representation from the Department of Defense (including the three military departments), Department of Commerce, Department of Labor, General Services Administration, and Small Business Administration.

(2) The Committee shall advise the Director of the Office of Emergency Planning on policies, procedures, and activities in existence or needed to carry out the purpose of this policy.

(3) When an entire industry, which sells a significant proportion of its production to the Government, is generally depressed or has a significant proportion of its production units located in sections of concentrated unemployment or underemployment or in areas of persistent or substantial labor surplus, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice to and hearing of interested parties, the Director of the Office of Emergency Planning will give consideration to appropriate measures applicable to the entire industry.

(f) All Federal departments and agencies shall give consideration to labor surplus areas, particularly to persistent labor surplus areas, in the selection of sites for Government-financed facilities expansion, to the extent that such consideration is not inconsistent with essential economic and strategic factors that must also be taken into account.

(g) Notification No. 58 dealing with the placement of procurement with the petroleum and petroleum products industries is continued in effect to the extent that it is not inconsistent with this revised policy.

[DMP 4, Rev., 32 F.R. 14388, Oct. 18, 1967, as amended at 33 F.R. 10303, July 20, 1968]

U.S. DEPARTMENT OF LABOR
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON

26 Apr. 1977

Mr. Gregory J. Ahart
Director
Human Resources Division
General Accounting Office
Washington, D. C. 20548

Dear Mr. Ahart:

The GAO report "The Labor Surplus Policy Is Ineffective In Providing Jobs For Disadvantaged, Unemployed Workers Via Government Contracts" is a comprehensive and thoroughly researched document. The team conducted reviews of 10 Federal agencies in Washington; seven Federal procurement activities; two local offices of the State employment agencies in each of six States; 15 firms in the labor surplus areas within these States; and three prime contractors. The group did an excellent job of analyzing the program and pinpointing its deficiencies. Except for minor differences, we agree with the findings and recommendations as expressed in Chapter 4.

Although the 25,900 placements of the disadvantaged are probably the least expensive of any special services afforded this group when considering the extremely limited expenditures, particularly in staffing, we agree that it is not providing government contracts in sufficient volume to significantly promote employment in labor surplus areas. While this is due in part to the socio-economic aspects of program policy, it is primarily the result of the low volume of set-aside contracts. In spite of the continuing and intensive efforts by the single staff member of the U. S. Employment Service responsible for directing the preference certification activities of the DMP-4 program, no amount of promotional effort to encourage employer participation can possibly overcome the extremely limited incentive offered by a mere 0.3 percent of the money value of Federal contracts that is set aside for labor surplus areas. This provides little opportunity for employers to obtain Federal contracts in spite of preferences promised under DMP-4. Herein lies the crux of the problem of employer participation in the DMP-4 program. Until this condition is rectified, all other efforts to expand the program will have little effect.

GAO note: Page references in this appendix refer to the draft report and do not necessarily agree with the page numbers in the final report.

The recommendations to strengthen the program through legislation, centralization of responsibilities and operations, elimination of red tape at both the procurement and certification processes, clarification of the program's goals and objectives, and through a less complicated system of designating labor surplus areas are all commendable. We believe, however, that the certification procedure on a much less complicated scale should be retained. Our recommendation would be to retain only two levels of preference: (1) A first preference to be awarded firms certifying that all new hires would be made from within the labor surplus areas, except in those occupations for which a supply of workers could not be found in the designated area (first preferences would also be awarded firms near, but not within, the labor surplus area -- but within reasonable commuting distance); and (2) A second preference automatically applicable to all firms located within a labor surplus area, but without a certification by the employer to hire only from the designated area.

We agree that the program should focus on areas of high unemployment. It is recommended that, instead of establishing a fixed percentage criteria for designating labor surplus areas (now 6 percent), the criteria should be a "floating" criteria, preferably two percentage points above the national percentage of unemployment. (For example, if the national percentage of unemployment were 7 percent, the criteria for designating labor surplus areas would be 9 percent.) This would limit the areas to those where unemployment was truly excessive and would respond to the questions raised on excessive labor surplus areas existing under present conditions, as discussed on page 17. It would also eliminate the necessity for amending Federal regulations periodically, as changes would occur in the national unemployment averages.

With respect to the recommendation that the Labor Surplus Policy should "insure that the program focuses on persistent areas of unemployment" (page 30), we do not believe the "persistent" classification to be realistic under the present high level of unemployment. Under present definitions, 290 areas are classified as areas of persistent unemployment of which 22 are large metropolitan areas classified as Standard Metropolitan Statistical Areas (SMSAs). If the term "persistent" is used under existing definitions, some of the large metropolitan areas and cities would not be included as labor surplus

areas. While the term "substantial" is more expansive under present definitions, a combination of the features of both definitions, tempered with the suggested unemployment rate criteria as discussed above, would result in a more practical classification method.

We are in disagreement with the contention stated on page 22 that the classification of labor surplus areas "...has been late e.g. 6 months to 1 year." In actual fact, the Department of Labor maintains the classifications on a current basis. All changes in the area classifications are made public monthly in the form of news releases, notices to procurement agencies, State employment security agencies, and regional offices by TWX. Only the issuance of the publication "Area Trends", which lists all labor surplus areas and their classifications, has been delayed.

The Department of Labor has been working on a series of proposals to the Surplus Manpower Committee for changes in the DMP-4 program which would include most of the recommendations included in the GAO report. Where action can be taken immediately without involving basic policies requiring approval by the Surplus Manpower Committee, such as a more simplified reporting system, we will take immediate steps to implement the recommendations.

Again, we compliment the GAO team on a most comprehensive and practical review and analysis of the overall DMP-4 program.

Sincerely,



FRED G. CLARK

Assistant Secretary for
Administration and Management



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

MANPOWER, RESERVE AFFAIRS
AND LOGISTICS

1 Jun. 1977

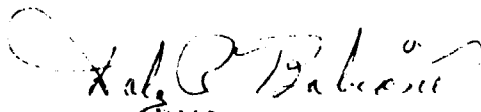
Mr. R. W. Gutmann
Director, Procurement and
Systems Acquisition Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Gutmann:

This is in reply to your letter of March 14 to the Secretary of Defense regarding your draft report on "The Labor Surplus Policy is Ineffective in Providing Jobs for Disadvantaged, Unemployed Workers Via Government Contracts." (OSD Case #4579)

Our review of this report indicates a lack of recognition that procurements for construction, petroleum products, and awards under \$10,000 are not subject to labor surplus area award preference consideration. Accordingly, such statistics should be deleted as noted in the enclosure. Additional comments regarding accuracy are also included in the enclosure.

Sincerely,


DALE R. BABIONE
Acting Principal Deputy Assistant
Secretary of Defense (L)

Enclosure
As stated



DOD COMMENTS

GAO DRAFT REPORT "THE LABOR SURPLUS POLICY
IS INEFFECTIVE IN PROVIDING JOBS FOR
DISADVANTAGED, UNEMPLOYED WORKERS
VIA GOVERNMENT CONTRACTS"

Introduction - page 7: Change the figures for the Defense Agencies to \$36,561 for Total Procurement; \$153 for Labor Surplus Set-Asides; and 0.41 for Percent.

REASON: The labor surplus area procurement program pertains to awards valued in excess of \$10,000. Therefore, awards under this threshold, valued at \$4.958 billion, should be deleted from the total procurement figures of \$48,429. Further, the labor surplus area program does not apply to petroleum procurements (\$2.928 billion) or to construction procurements (\$3.982 billion) which should also be deleted. The labor surplus set-aside figure should include \$27.8 million made by combined small business and labor surplus area set-asides.

Introduction - page 8: Change the figures for the Defense Logistics Agency to \$2,981 for Total Procurement; \$117.4 for Labor Surplus Set-Asides; and 5.9 for Percent.

REASON: The \$5,900 is not considered to be correct because it includes awards not subject to the labor surplus area program such as petroleum awards and awards under \$10,000. The Defense Logistics Agency had a total petroleum procurement of \$2.201 billion, \$3.6 million of which was made to labor surplus area firms. Awards under \$10,000 totaled \$718 million.

Introduction - page 8, 2nd paragraph, line 4: Delete "The winner is assured to be the most efficient producer who can provide the product or service at the lowest overall cost to the Government."

REASON: The mere fact that a firm offers the lowest price does not, of itself, assure that the firm is the most efficient producer.

Introduction - page 8, 2nd paragraph, line 10: Add the phrase "and is likely to result in the payment of higher prices.", after the word "attained." Delete the last sentence "Since less efficient . . . in all likelihood, increase costs."

REASON: The last sentence tends to confuse in that it infers that restricting competition results in less efficient methods rather than in higher prices.

Appendix II: Substitute enclosed corrected Appendix II.

REASON: Present Appendix II contains construction and petroleum awards that are not subjected to the labor surplus area program and, therefore, should be deleted.

Appendix V: Under Assistant Secretary of Defense (Installations and Logistics), make the following changes: Frank A. Shrontz - Feb. 1976 - Jan 1977; Dale R. Babione (acting) - Jan. 1977 - Present.

REASON: Incumbents have changed.

History of Defense Participation in the Labor
Surplus Policy
1952-75

(in millions of dollars)

Fiscal Year	Total DOD Procurement	Preference Awards	Percent of all Defense Contracts
1952	\$38,479	41.6	0.11
1953	26,994	23.0	0.09
1954	10,632	8.5	0.08
1955	12,590	47.8	0.38
1956	14,320	4.2	0.03
1957	15,442	10.8	0.07
1958	18,725	36.6	0.20
1959	19,609	96.0	0.49
1960	18,439	22.3	0.12
1961	20,176	50.5	0.25
1962	22,964	106.1	0.46
1963	23,081	137.8	0.60
1964	23,048	172.9	0.75
1965	22,155	109.0	0.49
1966	30,824	98.2	0.32
1967	36,121	57.8	0.16
1968	35,921	108.4	0.30
1969	33,743	185.2	0.55
1970	28,623	135.5	0.47
1971	27,633	99.3	0.36
1972	30,093	208.8	0.69
1973	28,122	117.2	0.42
1974	30,086	103.8	0.35
1975	33,756	74.4	0.22

Source: Department of Labor compilation from Department of Defense OASD (Comptroller, Directorate for Information Operations)

- 1/ Excludes work performance outside the U.S. Includes civil functions. Excludes prime contracts under \$10,000.
- 2/ Prime contract awards to large firms certified for preference under provisions of Defense Manpower Policy No. 4, includes value of awards to subcontractors receiving a substantial proportion of a prime contract award received by certified prime contractor. Does not include awards under \$10,000 or awards to small business with DMP-4 preference. Values are net values

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION



May 9, 1977

Honorable Elmer B. Staats
Comptroller General
of the United States
General Accounting Office
Washington, DC 20548

Dear Mr. Staats:

The General Services Administration (GSA) welcomes this opportunity to comment on your draft report entitled "The Labor Surplus Policy is Ineffective in Providing Jobs for Disadvantaged, Unemployed Workers Via Government Contracts."

Two divisions of GSA are especially interested in the draft report. First, the Federal Preparedness Agency of GSA is interested because it is responsible for coordinating and planning for work force mobilization and is the issuer of Defense Manpower Policy #4 (DMP-4). Secondly, the Federal Procurement Regulations (FPR) Staff of Federal Supply Service of GSA is interested in the draft report because it develops for publication in the FPR the regulations which implement DMP-4 for civilian executive agencies.

The draft is critical of the present status of DMP-4 and there may be some basis for criticism. However, the draft report contains several statements which are factually questionable or inappropriate, and we believe consideration of our enclosed comments would provide a better basis for developing conclusions in the final report.

In general, the title of the program, Defense Manpower Policy #4 (DMP-4), is appropriate, since the authority for the program flows principally from the Defense Production Act of 1950, Executive Order 10480, and Executive Order 11051. DMP-4 is the basis for a work force mobilization program.

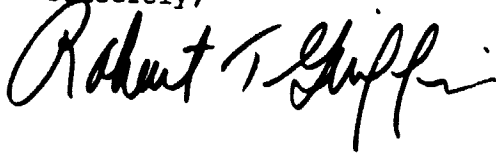
The level of achievement for this program could be improved with a clear preference for labor surplus area concerns by Congress. A significant increase in the volume of contracts awarded on the basis of preferences for labor surplus concerns would reduce small business set-aside awards. Directions regarding the relationship of these two interests must be provided before any major change in labor surplus

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results can be achieved. In our opinion a removal of the prohibition regarding payment of price differentials which is not accompanied by Congressional program support will not significantly improve results achieved under the labor surplus policy.

Our detailed comments appear in the enclosure of this letter. We appreciate the opportunity to comment on the draft report.

Sincerely,



Robert T. Griffin
Director, Office of Economic Policy

Enclosure

The following comments are provided regarding the GAO draft report entitled "The Labor Surplus Policy is Ineffective in Providing Jobs for Disadvantaged, Unemployed Workers Via Government Contracts."

General Comments

The draft report, by concentrating on the small percentage of procurements being set-aside for labor surplus area concerns, fails to consider other aspects of the policy such as the encouragement of contractors to locate in areas of surplus labor and efforts of agencies to place negotiated contracts in areas of surplus labor.

Also, there have been some additional developments since the GAO review of this area which might be of interest. By letter dated March 22, 1976, the Office of Management and Budget (OMB) wrote to the General Counsel, GAO, requesting his opinion as to whether OMB could request the Department of Defense (DOD) to conduct a test of a total set-aside for labor surplus area firms. By Decision B-145136, dated July 2, 1976, the GAO approved the testing of a total labor surplus area set-aside procurement by DOD, provided certain rules were followed to assure that the set-aside would be cancelled prior to award if the bid prices were determined to be other than in the "lowest price obtainable" category. By letter dated March 10, 1977, OMB wrote to FPA advising that OMB had concluded that a DOD test of total labor surplus area set-aside procurements would not be appropriate, and that OMB had not requested DOD to conduct such a test. GSA has now arranged for the Federal Supply Service to determine whether and to what extent bids received solely from labor surplus area firms would be higher than bids received as a result of an unrestricted solicitation. In this way GSA intends to obtain concrete information on any price differential the Government would be required to pay if procurements were totally set-aside for labor surplus areas. GSA has undertaken this action as it appears that the defense mobilization purposes of DMP-4 could be served by channeling more Federal procurement actions to areas of labor surplus.

Specific Comments

Page i. Lines 7-10 -- "The purpose of the Policy is to further the employment of disadvantaged workers -- the young, the old, the poor, the uneducated, the minorities."

Comment. Purpose of the Policy should be restated. The purpose is the preservation of skills in the work force for defense purposes.

Page ii. Lines 2-7 -- "...only 25,900 disadvantaged workers were hired.... These results are insignificant when compared to the tens of thousands of potentially eligible firms and the millions of unemployed people...."

Comment. The mobilization policy, DMP-4, deals with one facet of the labor force mobilization. The basic purpose of DMP-4 has been, and still is, the broadening of the skill base to provide for greater mobilization readiness. In recent years some have interpreted that there has been a shift from a defense-oriented policy to a policy more oriented to the socio-economic problems of the nation. However, the basic purpose as stated remains unchanged.

Page ii. Line 13 -- "Firms in these areas must be certified."

Comment. The third preference prescribed by the Department of Labor and implemented by Federal Procurement Regulations (FPR) and Army Services Procurement Regulations (ASPR) procedures does not require any certification. This misunderstanding of the role of the third preference appears throughout the draft report, and appears to be linked to the assumption that DMP-4 is a socio-economic policy.

Page ii. Lines 19-20 -- "There is no effective leadership for the Policy within the Federal Government."

Comment. This statement does not accurately reflect the information contained on pages 20-21. It fails to recognize current activities related to a total labor surplus set-aside. Later comments elaborate on this point.

Page ii. Lines 21-23 -- "...Agencies are prohibited by law from setting-aside a total procurement to a labor surplus firm...."

Comment. This statement is not technically correct. Federal agencies are prohibited from paying a price differential, DOD by law and civilian agencies by DMP-4.

Page iii. Lines 9-14 -- "Much of the problem is inherent in the Policy statement. Its goals are too broad and its terms are not clear. The absence of a statutory authority

for the Policy contributes to a lack of management support and aggressive implementation. Conflict with the small business program also hinders the Policy."

Comment. The report should clarify the reference to goals which are too broad and terms which are not clear. Greater emphasis should also be placed on the lack of statutory authority for the program and the conflict with the small business program.

Page iii. Lines 15-25 -- "Matters for consideration by the Congress."

Page iv. Lines 1-2

Comment. The authority to make 100 percent set-asides is an option that should accompany any viable alternative and should not be considered in isolation. Revising the policy to cover only economic disaster areas changes the purpose of this program from its primary orientation as a "defense" program. To maintain this defense orientation, the Policy should be written into law and accompanied by strong Congressional support.

Page 4. Line 25 -- ".... and has defined."

Comment. Add after defined and delegated.... The implementation of DMP-4 in the FPR and ASPR does not rely on any specific delegation of authority from FPA.

Page 8. Lines 20-24 -- "By restricting procurement sources in whole or in part to those available in labor surplus areas for selected procurement actions, this ideal of free and open competition will not be fully attained."

Comment. Since the unlimited portion of the present partial set-asides are not restricted to concerns in labor surplus areas this is attained using partial set-asides.

Page 9. Lines 1-2 -- "....effect of labor surplus set-asides on a depressed area may be transient."

Comment. It is difficult to measure these effects and to determine whether they are transient. This statement is conjectural, and in our opinion inappropriate. Remarks which follow this statement are similar in nature and are equally inappropriate.

Page 10. Lines 3-4 -- "...Policy is intended to aid economically distressed areas and hard core unemployed..."

Comment. As noted earlier, this statement does not reflect the intent of the Policy.

Page 12. Lines 8-9 -- Reference to "...an effort to clarify these priorities...."

Comment. This statement should reflect that the regulation issued by GSA was a restatement of the intent of the original language of the regulation in language that could not be questioned on the ground of ambiguity.

Page 20. Line 16 -- "Chairman of the Federal Preparedness Agency...."

Comment. Change Chairman to Director.

Page 21. Lines 16-18 -- "Department of Labor."

Page 22. Lines 1-2

Comment. The Department of Labor has no assigned responsibility to coordinate DMP-4. Therefore, no central office within the Department for coordinating DMP-4 is needed.

Page 23. Lines 21-26 -- "Civil Agencies."

Comment. Labor surplus set-asides are characterized in this section as an effort expended on an "on request basis." There has been continuing pressure for small business set-asides which have limited the use of set-asides for labor surplus areas.



U.S. GOVERNMENT
SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

Apr. 15, 1977

Mr. Henry Eschwege
Director, Community and Economic
Development Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in response to your letter of March 15, 1977, requesting our comments on your draft report titled, "The Labor Surplus Policy Is Ineffective in Providing Jobs for Disadvantaged, Unemployed Workers via Government Contracts."

We have reviewed the report and have concluded that we are in agreement with the basic findings of the report and subscribe to the implementation of your first recommendation which states:

"We suggest the Congress consider the following
. . . courses of action:

--Rescind the Policy and rely upon existing socio-economic programs to direct Federal procurements into areas of need. There is substantive support for this proposition given the inherent problems with the Policy."

We favor this recommendation since the small business set-aside program and the Section 8(a) contracting program can be utilized to direct Federal procurements into areas of need. In this regard, it should be noted that Section 1-706.7 of the Armed Services Procurement Regulations (ASPR) authorizes, and gives first priority to, combined small business and labor surplus area set-asides. ASPR 1-706.7a provides:

"(a). In the procurement of certain items, the objectives of both the Small Business Act and Defense Manpower Policy (DMP) No. 4 may be attained in a single procurement.

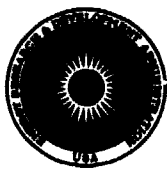
Under this procedure, the total required quantity of an item would be set-aside for exclusive participation by small business firms and a portion of that total quantity would be further set-aside for award to small business concerns which are also LSA firms."

Further emphasis by Department of Defense (DOD) upon the making of combined small business and labor surplus area set-asides and amendment of the Federal Procurement Regulations (FPR) to authorize such set-asides for the civilian agencies could be a middle position between the two alternatives suggested by the draft report.

We appreciate the opportunity to review and comment on this report and if any additional information is needed, please advise.

Sincerely,

William T. Spivey
A. Vernon Weaver
Administrator



UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

Apr. 14, 1977

Mr. Monte Canfield, Jr., Director
Energy and Minerals Division
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Canfield:

Reference is made to your letter dated March 15, 1977, forwarding copies of your draft report to the Congress entitled "The Labor Surplus Policy is Ineffective in Providing Jobs for Disadvantaged, Unemployed Workers Via Government Contracts."

We have discussed the draft with members of your staff and have made suggestions (see enclosure) intended to clarify the report and more completely cover the subject matter. Our only major concern with the existing draft is the explanation of our position as presently stated at the top of page 24. In order to properly explain our position we suggest that the last sentence of the paragraph which starts on page 23 be deleted and the following words be added to the previous sentence which now ends with "research plants.":

" , which are generally unsuited for LSA set-aside apparatus.
i.e., severably into two or more economic production runs."

We trust that our suggestions will be found to be helpful.

Sincerely,

Fred L. Hiser
Assistant to the Controller

Enclosure:
As stated

ERDA COMMENTS AND SUGGESTIONS WHICH
MAY BE USEFUL IN PREPARING GAO'S
LABOR SURPLUS POLICY REPORT

P. iii. "Conflict with the small business program also hinders the Policy (see p. 12)".

In addition to potential conflict with small business program labor surplus policy also complements small business program objectives. Negotiations for the labor surplus set-aside portion of an LSA set-aside contract action are conducted with bidders in order of priority, Groups 1-7. In each order of priority, (FPR 1-1.804-2) small business concerns are accorded a preference.

- Group 1. Certified - eligible concerns with a first preference which are also small business concerns.
- Group 2. Other certified - eligible concerns with a first preference.
- Group 3. Certified - eligible concerns with a second preference which are also small business concerns.
- Group 4. Other certified - eligible concerns with a second preference.
- Group 5. Persistent or substantial labor surplus area concerns which are also small business concerns.
- Group 6. Other persistent or substantial labor surplus area concerns.
- Group 7. Small business concerns which are not labor surplus area concerns.

Similarly, small business policies are designed to further labor surplus policy objectives in partial small business set-asides (FPR 1-1.706.6).

Negotiations shall be conducted with such small business concerns in the following order of priority:

- Group 1. Small business concerns which are also certified-eligible concerns with a first preference.
- Group 2. Small business concerns which are also certified-eligible concerns with a second preference.
- Group 3. Small business concerns which are also persistent or substantial labor surplus area concerns.
- Group 4. Small business concerns which are not labor surplus area concerns.

P. 4. first paragraph. Another preference vehicle accorded labor surplus firms not otherwise cited in GAO's report is found in FPR 1-2.407.6

1-2.407-6 Equal low bids.

In furtherance of the small business and labor surplus area policies set forth in subparts 1-1.7 and 1-1.8, award shall be made in accordance with the following order of priority when two or more low bids are equal in all respects (taking into consideration cost of transportation, cash discounts, and any other factors properly to be considered):

- (1) Certified-eligible concerns with a first preference (as defined in 1-1.801-1(a)) that are also small business concerns (as defined in subpart 1-1.7).
- (2) Other certified-eligible concerns with a first preference.
- (3) Certified-eligible concerns with a second preference (as defined in 1-1.801(b)) that are also small business concerns.
- (4) Other certified-eligible concerns with a second preference.
- (5) Persistent or substantial labor surplus area concerns (as defined in 1-1.801-1(c)) that are also small business concerns.
- (6) Other persistent or substantial labor surplus area concerns.
- (7) Other small business concerns.
- (8) Other concerns.

P. 7. "As previously stated, the certified concern must match the low bid received on the portion of the contract open to unrestricted competition."

The certified concern may match its own bid if low responsive, responsible bidder on non set-aside portion. Accordingly, the non set-aside and set-aside portions may be awarded to the same firm (labor surplus or small business concerns which are not labor surplus area concerns).

P. 8 (top of page) Labor surplus reporting in Standard Form 37 (Civilian Executive Agencies) commingles set-aside and non set-aside volume under tie bids awarded to labor surplus area firms (see FPR 1-2.407-6 and 1-16.901-37, II. Instructions for Line Entries, line 11).

P. 13 2nd, 3rd paragraph, p. 14, 1st, 2nd paragraph. FPR clarification was required for total set-asides vs. partial labor surplus area set-aside. Preference of partial labor surplus area set-asides over partial small business set-asides is well established in FPR 1-1.802-2(b)(1)

- (i) where either a partial labor surplus area set-aside or a partial small business set-aside can be appropriately made for any given procurement, the set-aside shall be made for labor surplus area concerns.

P. 23 "Civil Agencies. The level of effort that has been expended to locate and enforce labor surplus set-asides has been characterized as an 'on request' basis. The certified firm approaches the contracting officer and requests a set-aside - otherwise, usually no action is taken."

An exception to this generalization obtains in recurring procurement actions where procurement history indicates that labor surplus area set-asides are appropriate.

P. 25, 1st paragraph. Prime contractors subject to the Labor Surplus Area Subcontracting Program Clause in 1-1.805-3(b) are not required to report subcontract volume placed with labor surplus area concerns: moreover, such volume is not reportable under SF 37. Contrast these requirements with substantial provisions, reporting burden, subcontracting and review procedures in Small Business Subcontracting Program (Sec. 1-1.710-3(b) and 1-1.710-4) and Minority Business Enterprises Subcontracting Program (see 1-1.1310-2(b)). Emphasis in subcontracting to labor surplus area firms is insubstantial as compared to subcontracting programs to small/minority concerns.

P. 27, last paragraph. "Conflicts with the small business program also hinders the policy." See comments on p. 1.



National Aeronautics and
Space Administration

Washington, D C
20546

Apr. 22, 1977

Reply to Airtel W

Mr. R. W. Gutmann
Director
Procurement and Systems
Acquisition Division
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Gutmann:

We appreciate the opportunity to comment on GAO's draft report entitled, "The Labor Surplus Policy Is Ineffective In Providing Jobs For Disadvantaged, Unemployed Workers Via Government Contracts." We find it to be an excellent report, but we recommend one change as follows.

The last sentence of the first paragraph on page 24, which reads "Labor Surplus firms are generally small businesses which cannot qualify for those awards", should be deleted and replaced by the following:

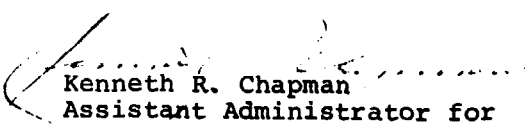
"These procurements do not include economically severable production type requirements which would lend themselves to labor surplus area set-aside procedures."

The initial statement, in context, is misleading for there are many small research firms in designated labor surplus areas that are well qualified and do participate in NASA's work. Rather, NASA has made no labor surplus area set-aside for the reasons as discussed in pages 4 and 7 of the draft report. That is, that NASA has elected to comply with the Maybank Amendment of the Defense Appropriation Acts which precludes the payment of a price differential in making a labor surplus area set-aside (see page 4). Thus a labor surplus area set-aside can be made only by dividing a procurement into economically severable parts-one part to establish the benchmark price, and the other to be offered (set-aside) for labor surplus area firms, at the established price (see page 7). NASA procurement requirements seldom, if ever, meet this severability requirement of labor surplus area set-aside procedures.

The recommended change has been coordinated with the Energy Research and Development Administration (Mr. Paul Terban) since the above-cited paragraph of the draft report refers to ERDA as well as NASA.

If we can be of further assistance in this matter, please let me know.

Sincerely,



Kenneth R. Chapman
Assistant Administrator for
DOD and Interagency Affairs



VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

Apr. 26, 1977

Mr. Gregory J. Ahart
Director, Human Resources Division
U. S. General Accounting Office
441 G. Street, N.W.
Washington, DC 20548

Dear Mr. Ahart:

We have reviewed the draft report, "The Labor Surplus Policy is Ineffective in Providing Jobs for Disadvantaged, Unemployed Workers via Government Contracts," dated March 15, 1977, and agree with the findings that the goals of the Labor Surplus Policy are too broad, implementation is too vague and cumbersome, and that obvious conflicts exist between the labor surplus preference awards and preference awards for small business.

The Veterans Administration (VA) has placed substantial dollar contracts in areas of labor surplus. Most such awards resulted from "non-preference" procedures rather than "preference" procedures. This was undoubtedly due to the fact that most labor markets qualify as areas of substantial unemployment. The majority of VA purchases are commercial products and there is limited opportunity for subcontracting.

It is our opinion that of the two alternative recommendations proposed in this report, the most beneficial course is the rescission of the present Labor Surplus Policy and reliance upon existing socioeconomic programs to direct Federal procurements into areas of need. This would not only eliminate the current conflict between the labor surplus preference awards and small business preference awards, but could potentially reduce the reporting burden placed on the private sector and the corresponding Government paperwork.

Sincerely,

A handwritten signature in black ink, appearing to read "Max Cleland".

MAX CLELAND
Administrator

LIST OF PRINCIPAL OFFICIALSRESPONSIBLE FOR ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<u>DEPARTMENT OF DEFENSE</u>		
SECRETARY OF DEFENSE:		
Harold Brown	Jan. 1977	Present
Donald H. Rumsfeld	Nov. 1975	Jan. 1977
James H. Schlesinger	June 1973	Nov. 1975
DEPUTY SECRETARY OF DEFENSE:		
Charles W. Duncan, Jr.	Jan. 1977	Present
William P. Clements	Jan. 1973	Jan. 1977
Kenneth Rush	Feb. 1972	Jan. 1973
ASSISTANT SECRETARY OF DEFENSE (INSTALLATIONS AND LOGISTICS):		
Dale R. Babione (acting)	Jan. 1977	Present
Frank A. Shrontz	Feb. 1976	Jan. 1977
John J. Bennett (acting)	Apr. 1975	Jan. 1976
Arthur I. Mendolia	June 1973	Mar. 1975
<u>DEPARTMENT OF LABOR</u>		
SECRETARY OF LABOR:		
Ray Marshall	Jan. 1977	Present
William J. Usery, Jr.	Feb. 1976	Jan. 1977
John T. Dunlop	Mar. 1975	Jan. 1976
Peter J. Brennan	Feb. 1973	Mar. 1975
<u>GENERAL SERVICES ADMINISTRATION</u>		
ADMINISTRATOR:		
Joel W. Solomon	May 1977	Present
Robert T. Griffin (acting)	Feb. 1977	May 1977
Jack M. Eckerd	Nov. 1975	Feb. 1977
Laight A. Ink (acting)	Oct. 1975	Nov. 1975
Arthur F. Sampson	June 1972	Oct. 1975
Rod Kreger (acting)	Jan. 1972	June 1972
Robert L. Kunzig	Mar. 1969	Jan. 1972