

United States General Accounting Office

GAO

Report to the Honorable
Don Nickles, U.S. Senate

March 1991

INTER-AMERICAN DEVELOPMENT BANK

Efforts to Improve Procurement Procedures







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

National Security and
International Affairs Division

B-242692

March 14, 1991

The Honorable Don Nickles
United States Senate

Dear Senator Nickles:

As you requested, we have developed information on the procurement practices followed by the Inter-American Development Bank. You asked us specifically to provide information on (1) the Bank's procurement policies and procedures, including requirements for international competitive bidding and data on Bank-financed procurement by source country; (2) what studies the Bank has made of its procurement policies and procedures; and (3) U.S. government awareness of any procurement problems and efforts to bring about any needed reforms.

Because we do not have authority to audit the internal records of the Inter-American Development Bank, we could not independently evaluate whether the Bank's policies and procedures were working as intended. Our review was limited to information available through U.S. government officials and private industry.

Results in Brief

Inter-American Development Bank regulations require borrowers in most cases to use competitive selection and bidding procedures that are open to firms from all member countries. These regulations are to be enforced primarily by personnel in the Bank's field offices, who review each contract to ensure compliance before authorizing Bank financing. However, neither U.S. nor Bank officials fully assessed how effectively these procurement policies and procedures ensure competition in contracting. According to available data, the U.S. share of Bank-financed procurement has declined in recent years, but U.S. officials believe this is due to many factors, including increased competition from other member countries, and they question the adequacy of the data.

U.S. officials requested in 1988 that the Bank conduct a comprehensive appraisal of its procurement procedures to better ensure the equitable and effective use of Bank resources. Bank management did not conduct such an appraisal but did revise some procedures to improve competition in contracting as the result of more limited internal reviews of its procurement system. In addition, the Board of Executive Directors

recently directed that a broader study of procurement issues be undertaken by the Board's own Office of External Review and Evaluation— independent of Bank management.

In September 1990, after completing a study of Bank procurement, the Department of the Treasury recommended a number of improvements to the Bank's procurement operations. Our review of available records corroborated potential improvements in Bank procurement procedures as identified by the Department's study, and we believe the Department's recommendations are appropriate for Bank consideration.

Background

The Inter-American Development Bank was established in 1959 to help accelerate economic and social development in Latin America and the Caribbean. Each of the 44 member governments is represented on the Bank's basic governing authority—the Board of Governors. The Governors have delegated responsibility for setting operational policy, interest rates, and capital market borrowings, and for approving loans, technical assistance, and the Bank's administrative budget to a 12-member Board of Executive Directors. The Bank's President, as chief officer, conducts the Bank's day-to-day business with the assistance of an Executive Vice President and the Bank's staff. The borrowing countries' agencies are responsible for project implementation, including procurement, as overseen by the Bank.

The Secretary of the Treasury, as U.S. Governor, has primary responsibility for managing U.S. participation in the Bank. He is aided by the Office of the Assistant Secretary for International Affairs and the Deputy Assistant Secretary for Developing Nations (Office of Multilateral Development Banks). The Secretary instructs the U.S. Executive Director on U.S. positions concerning the Bank and the exercise of the approximately 35 percent voting share controlled by the United States.

Annual Bank lending is expected to increase to an average of \$5 billion in the 1990s compared with a peak of \$3.5 billion in 1984 and \$2.6 billion in 1989. In 1989, disbursements totalled \$2.4 billion for the procurement of a wide range of goods and services. Bank loans finance equipment purchases ranging from heavy construction equipment to school books; construction contracts for major highways to single-family housing; and consulting services contracts for large-scale engineering and design to smaller technical assistance projects.

Under the Omnibus Trade and Competitiveness Act of 1988, the U.S. Executive Director to each of the multilateral development banks, including the Inter-American Development Bank, is required to give priority to promoting export opportunities for U.S. firms and to thoroughly investigate any complaints from U.S. bidders about the awarding of contracts by these banks.

Bank Policies and Procedures Require Competition in Awarding Contracts

The Bank's stated policy on procurement is that borrowers generally must follow open and competitive procedures when purchasing goods and services. The borrower is responsible for adhering to this policy, but the Bank monitors each step in the process, reserving the right to refuse funding if its regulations have not been followed.

Bank Policies Call for Open Competition

To qualify for Inter-American Development Bank loans, borrowers are generally required to procure goods and construction services through competitive bidding open to all member countries. Similarly, they must also acquire the consulting services of firms and individuals through a fully competitive and open selection process. This policy stems from the Bank's obligation under its charter to ensure that its loans are used with due attention to considerations of economy and efficiency. As a result, procurement policies and procedures are designed to provide a wide range of choices in selecting the best bid by promoting international competition among eligible firms of all member countries.

The Bank sets out its rules on international competitive bidding in publicly available guidelines, model loan agreements, and each loan agreement. The selected documentation we examined for a variety of loans generally included provisions that prohibited borrowers from imposing conditions that would restrict the participation of suppliers and contractors from member countries.

Allowable exceptions to the Bank's competitive regulations are made for contracts of less than \$200,000 and under certain other circumstances. Procedures other than competitive bidding, for example, are allowed when there is a need to standardize equipment and spare parts or expand on a contract that was already awarded competitively. In addition, local and regional suppliers are permitted to exceed the lowest evaluated bid by a maximum "margin of preference" of 15 percent.

Finally, the Bank allows local procurement requirements and procedures to supplement—but not contravene—Bank policy and basic bidding guarantees.

Bank Procedures Are Decentralized

As is the case with other multilateral development banks, the borrower, not the Bank, has ultimate responsibility for procurement. Bank personnel, however, must approve each contract before authorizing Bank funding. Although the borrower retains the final decision on any contract, the Bank may refuse to finance the procurement in question if Bank regulations have not been followed.

The Bank's system for monitoring borrowers' procurement activities is not centralized in Bank headquarters; rather, basic responsibility for reviewing and approving each step in the procurement process generally falls to personnel in the Bank's field offices in each of the 25 borrowing countries. Field offices are to review the borrower's procurement procedures from the preparation of bidding documents through to the award of contracts to ensure that they comply with the Bank's requirements as set out in each loan agreement. The review is designed to ensure, among other things, that

- specifications are clearly set out in bid documents and the call for bids is properly advertised and provided to all member country embassies,
- any pre-qualification of bidders in more complex projects is handled in the same non-discriminatory manner as above, and
- the evaluation and award of contracts strictly follows the criteria set out in the bid documents.

Bank headquarters personnel oversee the activities of the field offices through periodic random and selective reviews conducted by individual loan officers and supervisory missions from the Operations Department and through internal audits. In addition, the Bank's field offices and borrowing countries can refer bid protests, requests for waiver of the procurement rules, and other matters on a case-by-case basis to Bank headquarters, where they are resolved by the Procurement Committee composed of senior department officials. In some cases, especially protests on which the Committee has not reached a consensus, the matter is referred to the Bank's Executive Vice President for a decision.

The Bank normally expects borrowers and suppliers to resolve disputes among themselves. In its latest annual report, however, the Bank's Procurement Committee noted that the number of bid protests referred to it

has increased, from a low of 4 in 1980 to 27 in 1989. The 27 protests amount to about 2 percent of the 1,240 contracts financed by the Bank in 1989.

Bank Efforts to Improve Procurement Procedures

In August 1988, the U.S. Executive Director to the Bank requested that Bank management conduct a comprehensive study of how well the procurement procedures were working to ensure equitable opportunities for all bidders and the best use of Bank resources. Bank management completed two separate internal studies on specific procurement issues and approved the establishment of a central procurement unit but did not conduct the comprehensive review sought by the U.S. Executive Director. Although loan officers, supervisors, and auditors from Bank headquarters periodically visit field offices on procurement matters and report on the results of these visits, U.S. officials were not aware of any studies assessing the effectiveness of this system of oversight or identifying any patterns in procurement problems that may have surfaced.

Recently, the Board of Executive Directors has approved having its own evaluation group— independent of Bank management— undertake a comprehensive review of procurement issues in 1991.

Bank Revised Procurement Procedures and Established a Central Procurement Unit

When the U.S. Executive Director requested the comprehensive study of the Bank's procurement procedures in 1988, the Bank was undergoing a reorganization and a reduction in staffing. Partly as a result of its reorganization, the Bank in mid-1989 initiated internal studies by two working groups on the selection of consultants and the procurement of goods and construction contracts.

The working group on consultants completed its study in the summer of 1990, and Bank management subsequently revised the procedures to streamline the hiring of consultants for Bank-financed projects. These new procedures provided for more decentralized selection and contracting, established an appeals process similar to that of the Procurement Committee, and required borrowers to provide more precise information on the criteria used to judge the qualifications of consulting firms. The procedures are designed to reduce the time needed to select and award contracts to consultants while helping to assure competing firms of the openness of the process.

The working group on procurement focused its initial efforts on the development of procurement rules for a new program of sector lending.

Sector loans are designed to support policy initiatives and reforms by borrowing governments in certain economic sectors through the financing of general imports. These loans are not necessarily related to any physical project, the procurement of equipment, or the construction of facilities normally associated with longer-term project loans. According to U.S. officials, the sector lending rules approved by the Board of Executive Directors in August 1990 allow for (1) simplified international competitive bidding procedures and (2) the greater use of local public and commercial practices than is true of slower-disbursing project loans. The rules do not permit any restrictions on the participation of firms from member countries. U.S. officials told us they were not aware of any plans for the working group to conduct an overall study of procurement issues but noted that it would be working on measures to improve the Bank's system for collecting and disseminating procurement data and information.

In addition to these internal studies, the Bank in early 1990 established a central procurement unit within its Operations Department. As of November 1990, Bank officials had not fully staffed the unit or delineated its responsibilities. According to U.S. officials, Bank management intends to complete staffing of the unit by the end of 1991 and is considering assigning the unit responsibility for (1) coordinating the monitoring of borrowers to ensure compliance with Bank procurement policies; (2) providing advice, expertise, and training to Bank staff and to borrowers; (3) supporting the activities of the Procurement Committee; and (4) overseeing the Bank's procurement information systems.

The Bank's 1989 annual report was the first time a breakdown of disbursements by supplier country was reported. It shows that the U.S. suppliers' aggregate share of Bank-financed procurement has declined from an average of 27 percent annually from 1961 to 1987 to 11.1 percent in 1988 and 8.7 percent in 1989. Treasury officials noted that the U.S. share has been directly affected by increased competition from other supplier countries, especially borrowing member countries.

Treasury officials, however, believe that making informed judgments about procurement sources based on data reported by the Bank is difficult for several reasons. First, supplier firms, including foreign subsidiaries and local firms, from any one country may supply or include in their own products goods from other countries. Variations in the types of projects also affect the types of goods and services needed from year to year, in turn affecting the relative shares of supplier countries. Also, non-regional supplier countries (from Europe, Asia, and the Middle

East) started to join the Bank in 1976. Finally, Treasury officials noted that the Bank uses disbursements data because of past inaccuracies in contract awards data, but they added that the Bank is in the process of improving their procurement information system to overcome this problem.

Independent Office Will Conduct a Comprehensive Study

In November 1990, the Bank's Board of Executive Directors authorized a comprehensive procurement study to be conducted by the Office of External Review and Evaluation. The Office will review the Bank's policies and guidelines, assess their implementation, and make any necessary recommendations for improvement. The study is expected to begin in 1991.

The Office of External Review and Evaluation is directly responsible to the Board of Executive Directors and is independent of Bank management. It has access to the Bank's internal audit and evaluation reports, as well as access to all the records of the Bank. Its reports and recommendations are reviewed by the Board, which decides whether to approve specific recommendations for implementation by Bank management. Through an independent review this Office can better assure all member governments of an equitable procurement system in which their contributions are effectively used.

Treasury Department Has Recommended Improvements in Procurement System

U.S. Treasury officials believe that the Bank could take certain steps now to more fully ensure open competition in contracting. In September 1990 the Department made specific recommendations to the Bank based on its review of procurement issues, including how a procurement system should be organized, and of 49 case files involving procurement problems brought to the Department's attention largely by U.S. firms between 1975 and mid-1990.

Treasury Study Shows Need for Procedural Improvements

The Treasury Department undertook its study in connection with its statutorily required certification that borrowers who are procuring goods and services agree in writing not to discriminate against member country suppliers on the basis of nationality. The Department completed this certification on September 21, 1990, as required under title I of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1990 (P.L. 101-167).

While noting no instances of improper conduct by the Bank or its field offices, U.S. officials concluded that their study underscored the need for a central procurement unit and for certain other improvements in the Bank's procurement procedures, including the following:

- improved performance of headquarters, field office, and borrower personnel in implementing and overseeing procurement;
- wider international publication of calls for bid;
- greater assurance that protests can be brought to the Bank before lengthy local procedures are exhausted;
- more consistency in decisions on whether products equal to or better than those specified are allowable;
- better definition of rules governing permissible clarifications versus unacceptable modifications to submitted bids; and
- avoidance of additional local bidding requirements that might be excessive in relation to the size of the contracts involved.

While pointing to these potential improvements, the Treasury study and our review of the case files show that U.S. firms can be successful when bringing procurement protests before the Bank. Of 13 formal bid protests, U.S. firms were awarded contracts in 6 cases, foreign firms in another 6 cases. In the remaining case the Bank agreed with the protesting U.S. firm that the borrower had not strictly followed bidding rules and refused to finance the contract.

Case files on the "complaints" (not formal bid protests) and issues of concern raised by U.S. firms were not always sufficiently complete to determine what action was taken or the outcome. In at least five cases records show that U.S. firms either did not pursue their complaints first with local authorities or missed previously announced deadlines for doing so. In two other cases Bank field offices agreed that local project authorities had not properly evaluated bid submissions, and the contracts were reevaluated or rebid. In yet another case a Bank field office required a borrower to redraw specifications which a U.S. firm complained could be met only by firms from another developed country.

We found, and U.S. officials acknowledged, that while the case files are sufficient to point out potential areas for improvement, they are not necessarily indicative of the full extent and nature of procurement concerns. The same holds true for the current case-by-case approach of the Bank's Procurement Committee. In the absence of a more thorough assessment of the experience and performance of borrowers and field

offices, U.S. officials are concerned that the Bank may be missing further opportunities for improvement.

Although the cases brought to their attention represent comparatively few instances in which procurement procedures may not have been properly followed, U.S. officials have been concerned that without a fully operating central procurement unit more such instances may be going undetected while others might have been prevented from arising in the first place. They noted that such a unit could better ensure that the process (1) is, and is seen to be, impartial and (2) results in the most efficient and effective use of Bank resources.

Treasury Recommended Procedural Improvements

On September 24, 1990, the Treasury Department forwarded its recommendations to the Bank for its consideration. The most important of these is to complete the staffing of the central procurement unit in the Bank's Operations Department with technically competent specialists and to clearly define its responsibilities. According to the Treasury Department, these specialists should be responsible for interpreting procurement policies and procedures; reviewing procurement designs in proposed loans; providing policy guidance, training, and technical advice to Bank staff and borrowers; ensuring wide publication of guidelines and bid opportunities; and giving technical support to the Procurement Committee. The U.S. views on the staffing and functions of the central procurement unit appear to be in line with, but also expand upon, those under consideration by Bank management.

The Treasury Department also recommended that the Bank

- increase procurement training, guidance, and consultation for headquarters, field office, and borrower personnel;
- more widely disseminate information explaining and describing its procurement procedures;
- incorporate its guidelines by reference in all loan contracts;
- ensure wider international publication of bidding opportunities;
- confirm that local remedies need not be exhausted before it will hear bid protests;
- increase its use of outside experts in deciding on complex cases, such as those dealing with the acceptability of products equal to or better than those specified;
- better define rules governing permissible clarifications as opposed to unallowable modifications to submitted bids;

- work with borrowers to avoid the use of excessive local bidding requirements; and
- refine the Bank's current system for presenting procurement data.

Our review of Treasury's records, including protests and complaints on Bank-financed contract awards, corroborated the potential for improvements in Bank procurement procedures as identified by the Department's study. Based on our review of the records, we believe Treasury's recommendations to the Bank are appropriate. In December 1990, the Bank responded to Treasury's recommendations; however, Treasury did not provide us with an evaluation of the Bank's response.

Increased Agency Attention to Procurement Issues

The Omnibus Trade and Competitiveness Act of 1988 called for the designation within the Department of the Treasury of an officer of multilateral development bank procurement and for the appointment by the Commerce Department of personnel to assist each U.S. Executive Director in promoting business opportunities and investigating the complaints of U.S. firms.

Until October 1990 the staff positions related to these functions were filled as part-time duties of existing staff at Treasury and Commerce and of a special assistant to the U.S. Executive Director. More recently, the Commerce Department has designated full-time officers on procurement matters for each of the multilateral banks, including the Inter-American Development Bank, to assist the U.S. Executive Director in promoting U.S. business opportunities and investigating complaints.

Scope and Methodology

Our review was limited because we do not have authority to audit the internal records of multilateral development banks, including the Inter-American Development Bank. Accordingly, we examined available records, including Bank procurement guidelines, data, and Procurement Committee annual reports, as well as U.S. government case files and other information at the Department of the Treasury, the Bank's Office of the U.S. Executive Director, and the Department of Commerce. We also interviewed officials from these offices and representatives of private industry associations.

We did not obtain official agency comments; however, we discussed the information in this report with agency officials. Their views are included in the report where appropriate. We conducted our review

from October 1989 to November 1990 in accordance with generally accepted government auditing standards.

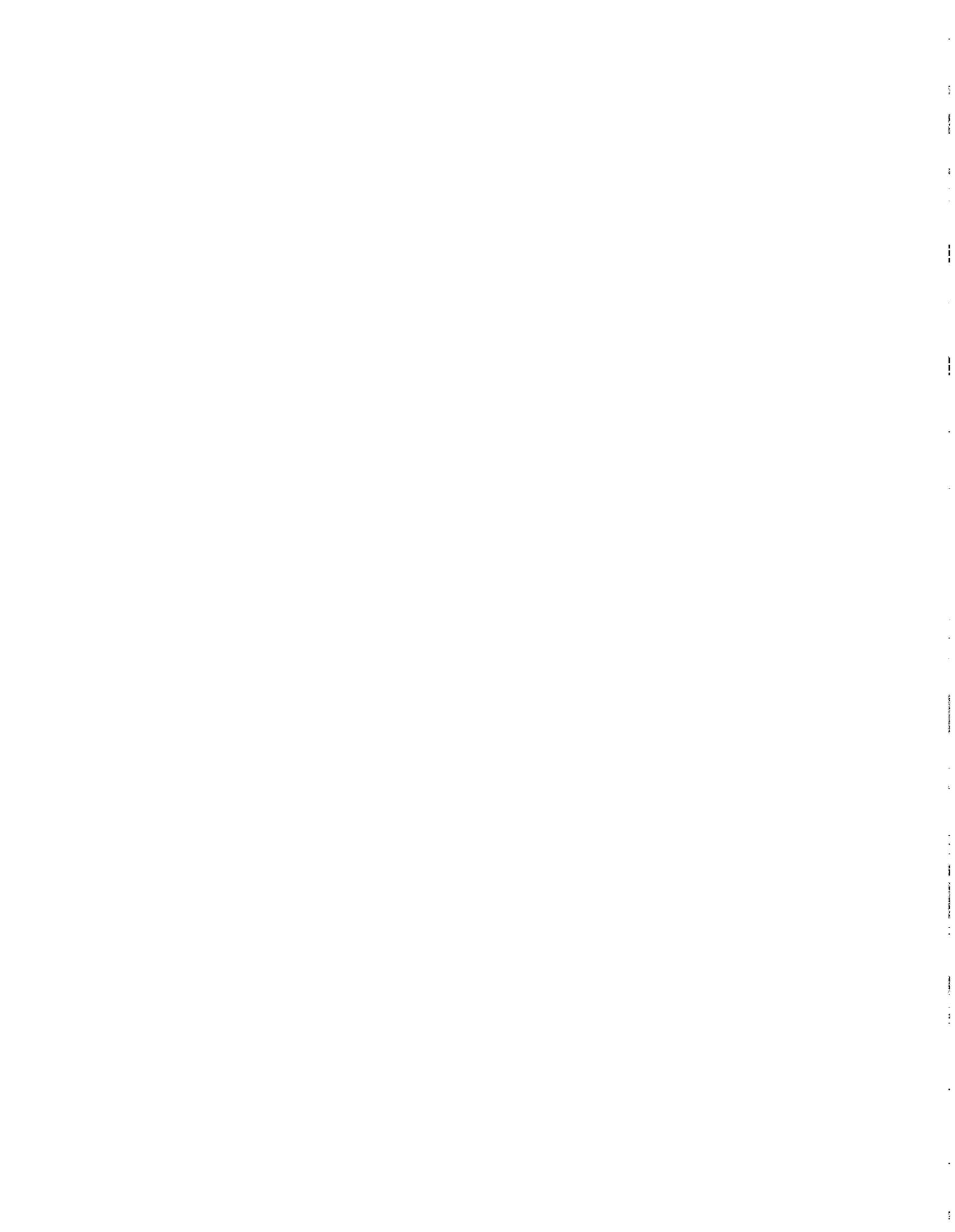
As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days after its issue date. At that time we will send copies to the Chairmen, House Committee on Foreign Affairs and Senate Committee on Foreign Relations; the Secretaries of the Treasury and Commerce; and the Director, Office of Management and Budget. We will also make copies available to other interested parties upon request.

Please contact me at (202) 275-5790 if you or your staff have any questions concerning this report. Major contributors to this report were Leroy W. Richardson, Assistant Director, and Douglas P. Toxopeus, Evaluator-in-Charge.

Sincerely yours,



Harold J. Johnson
Director, Foreign Economic
Assistance Issues



Ordering Information

The first five copies of each GAO report are free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

**U.S. General Accounting Office
P. O. Box 6015
Gaithersburg, MD 20877**

Orders may also be placed by calling (202) 275-6241.

