



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

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MAR 19 1974



The Honorable Richard F. Schubert  
Under Secretary of Labor  
U.S. Department of Labor  
Washington, D.C. 20210

Dear Mr. Schubert:

By letter dated October 3, 1973, to Congressman Chet Holifield, you requested assistance on one of the Procurement Commission recommendations.

The recommendation concerns establishing a minimum procurement value of \$10,000 at which the Buy American Act is to be administered. Your Department has the lead responsibility to develop a proposed executive branch response to the recommendation. Your letter indicated that agency resources were not available to determine the impact of the change on American labor and industry and you requested our assistance in the matter.

Since November 1973 we have been working on this matter with your representatives and the Office of Procurement Management, General Services Administration (GSA). In summary, extensive fieldwork by Study Group 2 of the Commission on Government Procurement, a search of Comptroller General decisions on Buy American issues, and information furnished by two GSA operating divisions which procure foreign products indicate that foreign bidders have had little interest in U.S. procurements under \$10,000. GSA procurement officials reported that bids to supply foreign products have not been significant in number until the procurement value approaches \$50,000.

Further details are contained in the enclosed staff paper prepared by the GSA Office of Procurement Management.

In accordance with his request, a copy of this letter is being sent to Congressman Holifield.

Sincerely yours,

Deputy

Comptroller General  
of the United States

Enclosure

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GENERAL SERVICES ADMINISTRATION

OFFICE OF FEDERAL MANAGEMENT POLICY

PROCUREMENT MANAGEMENT

GSA Staff Analysis of Information Augmenting Task Group  
Deliberations-Commission on Government Procurement (COGP)

Recommendation A-44

- I. COGP Recommendation A-44: Raise to \$10,000 the minimum level at which social and economic programs are applied to the procurement process.
- II. Lead Agency: Department of Labor (DOL)
- III. Analysis Objective: To gain insight on probable effect of a \$10,000 threshold on American labor and industry with respect to the Buy American Act for consideration by the task group.
- IV. Background: The DOL, in a letter to Congressman Holifield on October 3, 1973, requested assistance on COGP Recommendation A-44 with respect to the Buy American Act and the effect a \$10,000 applicability threshold might have on American labor and industry. It was stated that a lack of resources prevented them from carrying out such a review. DOL suggested that GAO be given the assignment for making an impact analysis. By letter dated October 12, 1973, Congressman Holifield referred DOL's inquiry to GAO for appropriate action.

Subsequently, a GAO representative met with GSA, Office of Procurement Management officials on November 20, 1973, stating that while GAO would help in establishing parameters for such an analysis, it felt that conducting such an analysis was properly the purview of the executive agencies. Working with the DOL Task Group Leader, GAO proposed an informal approach for use in performing the analysis. GSA was suggested as the agency to conduct the study, reporting its findings to DOL for consideration in forming the proposed executive branch position on COGP Recommendation A-44.

On November 27, 1973, the matter of conducting such a survey was placed before the Interagency Planning Staff, a group of high level procurement management officials designated to consider proposed executive branch positions on all COGP recommendations and related matters. That group recommended that a meeting be scheduled with the Task Group leader for further discussion about the study since it was their position that the requested study probably would not be an effective

means of responding to the DOL need. Accordingly, a December 12, 1973, meeting was held by GSA officials with the DOL Task Group leader, followed by a joint meeting between representatives of GAO, GSA and DOL on January 8, 1974. As a result, it was decided that GSA should conduct a limited study by soliciting the views and opinions of GSA procurement officials as the initial effort, followed by additional review (in one or two other procuring agencies) as deemed necessary. It was agreed that no "hard" statistics would likely surface to support the Task Group proposed position, but as a minimum, a "feel" for any potential impact could be obtained. A basic rationale for instance was to obtain best estimates of the dollar levels at which foreign bidders seem most interested in bidding.

GSA tentatively agreed to see if useful intelligence on the subject could be developed through discussion with GSA procurement personnel.

## V. Findings and Analysis:

### A. Review in GSA

Meetings were conducted with two GSA Division Directors in the National Buying Center of the Federal Supply Service, Office of Procurement. A representative responsible for maintaining FSS procurement statistics was also contacted. These individuals are directly associated with day-to-day procurement operations and therefore, are in a position to most intelligently comment on the issue.

Total FSS procurement for FY 1973 was \$1.8 billion of which \$39.1 million (2.2%) was foreign procurement. In FY 1973 the Division Directors' procurement assignments were for commodities (largely hand tools, flatware, instruments and laboratory equipment) which accounted for 27.4% of the total FSS foreign procurement volume. On the premise that a fair proportion of GSA foreign procurement dollars is represented by the 27.4% under the cognizance of two Directors, investigative effort was confined to those Divisions, since any intelligence obtained should be representative of GSA's foreign procurement operation in general.

From the outset, GSA officials confirmed the Planning Staff contention that there is nothing in the procurement data base, at least at FSS, that would accurately identify the number of bid responses below \$10,000 on which foreign products had been or would be offered. However, some pertinent information is available as follows.

In FY 1973, FSS awarded approximately 18,600 contracts, 171 (9/10 of 1%) of which were awards where a Buy American differential was applied, and only 77 of the total involved contracts of less than \$10,000 (2/10 of 1%) These data appropriately demonstrate the probable minor impact that an economic threshold increase would have, at least in FSS.

As for subjective views, both Directors felt that increasing the threshold to \$10,000 for application of Buy American Act provisions would have little or no effect on the number of foreign bids received in the \$10,000 area. One Director said he believed that the threshold on most bidding on foreign products centered around \$50,000 and therefore, minimal impact would occur if the recommendation were implemented.

A collateral issue to increasing the Buy-American threshold is found in COGP Recommendation A-7, increasing the present \$2,500 ceiling for applying simplified purchasing procedures to \$10,000. To illustrate, there is presently no means of determining the number of foreign bid received on contracts under \$2,500. (This "unknown" will be increased threefold if and when the ceiling for applying simplified purchasing procedures is raised to \$10,000). In our experience contracting officers using the current simplified procedures are inclined to "pick and choose" the sources they solicit. Their source lists are composed of local suppliers who have demonstrated that they can and will furnish a given requirement quickly and, many times, direct from the shelf. Thus, the contracting officer has a method at his disposal for eliminating administrative "red tape" associated with the application of Buy-American provisions and their attendant rules and regulations. We would expect this same logic to apply if and when the simplified purchase ceiling is raised to \$10,000. The contracting officer will continue to avoid soliciting bids from suppliers offering foreign products simply to avoid any hassle. Consequently, an increase in foreign bidding, precipitated by an increase in the ceiling for applying simplified purchasing procedures, seems improbable.

#### B. Work of the COGP Study Group on the Buy American Issue

COGP Study Group No. 2 conducted an exhaustive study in support of their findings and conclusions on this issue. It is located in Volume I, Chapter 7 of the Study Group Report, pages 531-552 and Appendix 2 to Chapter 7, pages 1289-1296. Copies of these pages are enclosed for use by the Task Group in forming their position. The Study Group's findings were highlighted by some of the following points:

1. Ten field visits were conducted at procuring activities.
2. Most agencies, in general, expressed the opinion that the

proportion of procurements made following the application of bid evaluation factors was very small.

3. It was "repeatedly stated" that procurements of products of foreign origin are insignificant in proportion to total procurements, (borne out in data on FSS procurement) and most of them are made because the products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
4. While some statistical data was obtained, most informative were the subjective replies and comments concerning procuring agencies' experiences in operating under the procedures in ASPR and FPR.

#### C. Review of Comptroller General Decisions Pertaining to Buy American Issues

As a final alternative for obtaining some "hard" data for use in forming an opinion about this issue, ten published Comptroller General Decisions involved with the Buy American issue were selected at random over the past 10 years. Decisions relative to the following procuring agencies were covered: Department of the Army; General Services Administration; Defense Supply Agency; Department of Interior; Department of the Navy; and Housing and Urban Development.

Commodities in the sampling ranged from pipe wrenches (GSA), to construction of low-rent housing in Guam (HUD), to anti-submarine rockets (NAVY), to sulfadiazine tablets (DSA). In seven cases, the dollar value of award exceeded \$10,000, ranging from \$16,000 to \$15,000,000. The dollar value of award could not be determined in the other three cases.

While this data is far from conclusive, it is another "effect" indicator which the Task Group may wish to consider in forming its proposed executive branch position.

#### VI. Summary

- o There is no "hard" data in the procurement data base, at least in GSA, that will accurately identify the number of bid responses below \$10,000 on which foreign products have been offered.

- o GSA officials feel that bids offering foreign products do not become significant in number until the procurement value approaches \$50,000.
- o In one study conducted in FSS, it was determined that the total contracts supplying foreign products in relation to contracts of less than \$10,000 was not more than 2/10 of 1% of the total number of contracts awarded in FY 1973.
- o The general thrust of the foregoing is collaborated by the study performed by COGP Study Group 2.

*L. E. Roach*