

DOCUMENT RESUME

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Federal Assistance to State and Local Governments and Other Organizations for Selected Programs. ID-78-40; B-162222; B-156489. May 2, 1978. 2 pp. + 2 enclosures (27 pp.) .

Report to Rep. Charles J. Carney, Chairman, House of Representatives: Congressional Steel Caucus; by J. Kenneth Fasick, Director, International Div.

Issue Area: International Economic and Military Programs (600); International Economic and Military Programs: U.S. Comparative Advantage in Trade and Technology (608) .

Contact: International Div.

Organization Concerned: Department of Commerce; General Services Administration.

Congressional Relevance: House of Representatives: Congressional Steel Caucus. Rep. Charles J. Carney.

Authority: Buy American Act (41 U.S.C. 10a). Department of Defense Appropriations Act [of] 1978 (P.L. 95-111). Rural Electrification Act, as amended (7 U.S.C. 903). Public Works Employment Act of 1977 (P.L. 95-28; 91 Stat. 116). Clean Water Act of 1977. Airport and Airway Development Act of 1970. Federal-Aid Highway Act of 1973. Federal-Aid Highway Amendments of 1974. Federal-Aid Highway Act of 1976. Urban Mass Transportation Act of 1964. Railroad Revitalization and Regulatory Reform Act of 1976. Rail Passenger Service Act of 1970. P.L. 95-217. P.L. 93-87. P.L. 93-643. P.L. 94-280. P.L. 88-365.

Both a manual and a computer-assisted search was conducted of U.S. laws to determine the provisions that provide for distribution of Federal funds to State and local jurisdictions under established Federal programs. The best compendium of such information is the Office of Management and Budget's "Catalog of Federal Domestic Assistance." The legal research identified only three statutory provisions imposing Buy American-type restrictions on procurements by State and local authorities: the Rural Electrification Act, as amended; the Public Works Employment Act of 1977; and the Clean Water Act of 1977. (RRS)



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

MAY 02 1978

INTERNATIONAL DIVISION

B-162222
B-156489

The Honorable Charles J. Carney, Chairman
Congressional Steel Caucus
House of Representatives

Dear Mr. Chairman:

This is in further reference to the letter of February 9, 1978, to the Comptroller General from the Congressional Steel Caucus and, in part, responds to a related inquiry from Congressman Morgan F. Murphy requesting our assistance in investigating matters relating to the Buy American Act (41 U.S.C. 10a) and the specialty metals provision of the Department of Defense Appropriations Act for fiscal year 1978 (Public Law 95-111).

With respect to item 4 of your request, we have attempted both a manual and computer-assisted search of U.S. laws to ascertain the provisions that provide for distribution of Federal funds to State and local jurisdictions under established Federal programs. Perhaps the best compendium of such information is the Office of Management and Budget's "Catalog of Federal Domestic Assistance." We have selected those extracts from the 11th edition, 1977 (together with the November 1977 update) that are pertinent to your request. (See enc. I.)

We understand that the 1978 edition of this catalog will be available from the Office of Management and Budget in June.

Our legal research has identified only three statutory provisions imposing Buy American-type restrictions on procurements by State and local authorities.

1. The Rural Electrification Act, as amended, 7 U.S.C. 903 Note
2. The Public Works Employment Act of 1977, Public Law 95-28, 91 Stat. 116
3. The Clean Water Act of 1977, Public Law 95-217, §39, December 27, 1977

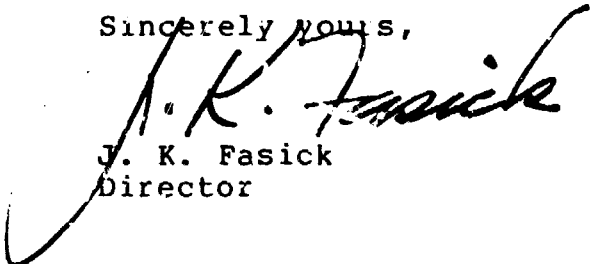
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We will continue to provide you with the other information requested as promptly as possible. As you may be aware, representatives of my office met with Mr. Philip Cla, Director of the Congressional Steel Caucus, on March 7, 1978, to develop an acceptable program for responding to your request. We will proceed with that program, which will entail making information available to you as we complete the various segments of the request.

A copy of my prepared statement on the Buy American Act before the House Subcommittee on Legislation and National Security on April 5, 1978, is enclosed for your information. (See enc. II.)

As agreed with your office, we are sending copies of this letter to the Chairman, House Committee on Government Operations, and to Representative Morgan F. Murphy.

Sincerely yours,



J. K. Fasick
Director

Enclosures - 2

FEDERAL ASSISTANCE (OBLIGATIONS) TO STATE AND LOCAL GOVERNMENTS
AND OTHER ORGANIZATIONS FOR SELECTED PROGRAMS - FY 1977

	<u>Grants</u>	<u>Other</u>
	(000's omitted)	
Federal Aviation Administration:		
Airport development aid program	\$ 510,000	
Federal Highway Administration:		
Federal aid highway program	7,634,495	
Urban Mass Transportation Administration:		
Capital improvements program	1,250,000	
Formula grant program	196,337	
Federal Railroad Administration:		
Guarantee of obligations		\$ 400,000
Purchase of redeemable preference shares		120,000
Amtrak grants	600,700 <u>1/</u>	
U.S. Railway Association:		
Purchase of Conrail debentures		381,400 <u>2/</u>
Purchase of Conrail preferred stock		31,300 <u>2/</u>
Department of Commerce:		
Grants for public works	4,184,000 <u>3/</u>	
Environmental Protection Agency:		
Wastewater treatment works	6,600,000	
Department of Agriculture:		
Rural electrification insured/guaranteed loans		5,850,000
Department of Energy:		
Grant programs	<u>3,169,252</u>	
TOTAL	<u><u>\$24,944,784</u></u>	<u><u>\$6,782,700</u></u>

Source: Unless otherwise noted, information was obtained from the "1977 Catalog of Federal Domestic Assistance" and its update, Executive Office of the President, Office of Management and Budget.

- 1/ Obtained from Federal Railroad Administration. Figure represents Federal appropriations for Amtrak.
- 2/ Obtained from U.S. Railway Association. Represents actual purchases.
- 3/ \$4 billion of the above figure represents an authorization increase under the Local Public Works Capital Development and Investment Act of 1976, Public Law 95-28, May 13, 1977.

FEDERAL AVIATION ADMINISTRATION

20.102 AIRPORT DEVELOPMENT AID PROGRAM

(ADAP)

FEDERAL AGENCY: FEDERAL AVIATION ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION

AUTHORIZATION: Airport and Airway Development Act of 1970;
Public Law 91-258, 49 U.S.C. 1701, as amended by Public Law
92-174, Public Law 93-44, and Public Law 94-353.

OBJECTIVES: To assist public agencies in the development of a na-
tionwide system of public airports adequate to meet the needs of
civil aeronautics.

TYPES OF ASSISTANCE: Project Grants; Advisory Services and
Counseling.

USES AND USE RESTRICTIONS: Grants can be made for: (1) land
acquisition, (2) site preparation, (3) construction, alteration, and
repair of runways, taxiways, aprons, and roads within airport
boundaries, (4) construction and installation of lighting utilities,
navigational aids, and certain offsite work and (5) safety equip-
ment required for certification of airport facility, and (6) security
equipment required of the sponsor by the Secretary of Transpor-
tation by rule or regulation for the safety and security of persons
and property on the airport and (7) snow removal equipment;
and (8) noise suppressing equipment, construction, landscaping
and land acquisition for noise compatibility, and (9) terminal
development. Grants may not be made for the construction of
hangars, parking areas for automobiles, or for buildings not re-
lated to the safety of persons on the airport. Technical advisory
services are also provided.

ASSISTANCE CONSIDERATIONS:

Formula and Matching Requirements: Federal Government share of
allowable costs of airport development project may not exceed:
75 percent for an air carrier airport (other than a commuter ser-
vice airport) which enplanes one-quarter of one percent or more
of all passengers enplaned at all such airports, 90 percent for all
other airports, i.e., general aviation airports, reliever airports, and
commuter service airports, and air carrier airports which enplane
less than one-quarter of one percent of such passengers. This 90
percent Federal participation is for FY 76 and transitional quarter
funds, and for FY 77 and 78 funds; this amount is reduced to 80
percent for such airports for FY 79 and FY 80. The Federal
share for terminal development projects at air carrier airports
may be funded only from the airport's enplanement apportion-
ment and no more than 60 percent of such apportionment for any
fiscal year may be obligated for such projects. The Federal share
of terminal development projects shall be 50 percent.

Length and Time Phasing of Assistance: No set period of time.
Assistance is released upon application for progress payments as
needed.

FINANCIAL INFORMATION:

Account Identification: 69-8106-0-7-405.

Obligations: (Grants) FY 76 \$416,300,000; FY 77 \$510,000,000;
and FY 78 est \$540,000,000.

Range and Average of Financial Assistance: \$2,580 to \$15,628,171;
\$533,000.

FEDERAL HIGHWAY ADMINISTRATION

20.205 HIGHWAY RESEARCH, PLANNING, AND CONSTRUCTION

(Federal-Aid Highway Program)

FEDERAL AGENCY: FEDERAL HIGHWAY ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION

AUTHORIZATION: Federal-Aid Highway Act of 1973; Public Law 93-87; Title 23 U.S. Code as amended; Federal-Aid Highway Amendments of 1974; Public Law 93-643; Federal-Aid Highway Act of 1976, Public Law 94-280.

OBJECTIVES: To assist State highway agencies in constructing and rehabilitating the Interstate highway system and for building or improving primary, secondary, and urban systems roads and streets, and to provide aid for their repair following disasters, to foster safe highway design; and to replace unsafe bridges.

TYPES OF ASSISTANCE: Formula Grants; Project Grants.

USES AND USE RESTRICTIONS: Depending on which aspect of the program funds are applied to, they may be used for planning, surveying, research, engineering, right-of-way acquisition, new construction, reconstruction, repair improvement, roadside beautification, and recreation. Funds may be applied to highways, bridges, bikeways, pedestrian walkways, fringe and corridor parking facilities, and rest areas. All capital projects in urban areas of more than 50,000 population must be based on a continuing comprehensive planning process. Some county and local roads and streets may be part of a Federal-aid system and are eligible for improvement, but only through State highway department initiative and action. Selected Interstate and non-Interstate authorizations may be used for mass transit capital improvements at the request of State and local governments. Special programs for highway safety and railroad grade crossing protection are also available for roads both on and off Federal-aid systems. This program is eligible for Joint Funding but the initiative lies with the State Highway Agency. The State Highway Agency is solely responsible for reviewing and rejecting or approving on a final basis specific State projects. **JOINT FUNDING:** This program is considered particularly suitable (eligible) for joint funding with closely related Federal financial assistance programs in accordance with the provisions of OMB Circular No. A-111. For programs that are not identified as particularly suitable or eligible for joint funding, applicant may consult the headquarters or field office of the appropriate funding agency for further information on statutory or other restrictions involved.

ASSISTANCE CONSIDERATIONS:

Formula and Matching Requirements: Formulas where applicable based on factors such as ratio of population, area and intercity mail route mileage in a single State to the totals for all states, in such proportions as applied by law for the primary, secondary, and urban systems and various categorical programs. Interstate completion formula is based on the cost to complete the remainder of the system. The formula for forest highways is based on the area and value of the national forest lands in each State. The normal Federal share is 90 percent for Interstate and safety projects and 70 percent for most other projects. The Federal share is increased in the case of states with large areas of public lands. Some projects require no State matching of Federal funds.

Length and Time Phasing of Assistance: Except for the Interstate program, Federal-aid highway funds become available at the beginning of the fiscal year for which they are authorized, and must be obligated within 3 years after close of that fiscal year. Interstate funds become available 1 year prior to the beginning of the fiscal year for which they were authorized, and must be obligated within 2 years after close of that fiscal year.

FINANCIAL INFORMATION:

Account Identification: 20-8102-0-7-404.

Obligations: (Grants) FY 76 \$4,531,586,000; TQ \$1,625,073,000; FY 77 est \$7,634,495,000; and FY 78 est \$7,545,000,000.

Range and Average of Financial Assistance: \$28,697,163 to \$413,957,688; \$125,686,000.

URBAN MASS TRANSPORTATION ADMINISTRATION

20.500 URBAN MASS TRANSPORTATION CAPITAL IMPROVEMENT GRANTS

(Capital Grants)

FEDERAL AGENCY: URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

AUTHORIZATION: Urban Mass Transportation Act of 1964; Public Law 88-365, as amended through February 5, 1976; 49 U.S.C. 1601 et seq.

OBJECTIVES: To assist in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation, lease, or otherwise, in mass transportation service in urban areas and in coordinating service with highway and other transportation in such areas.

TYPES OF ASSISTANCE: Project Grants.

USES AND USE RESTRICTIONS: Eligible facilities and equipment include land, buses, other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. Ordinary governmental or project operating expenses are excluded. Adequate public notice must be given of intent; social and economic impact on environment must be considered; project must be consistent with official plans for comprehensive development of urban areas.

FINANCIAL INFORMATION:

Account Identification: 69-4119-0-3-404.

Obligations: (Grants) FY 76 \$1,092,220,000; TO \$246,990,000; FY 77 est \$1,250,000,000; and FY 78 est \$1,350,000,000.

Range and Average of Financial Assistance: \$1,216 to \$800,000,000, \$5,048,948.

20.507 URBAN MASS TRANSPORTATION CAPITAL AND OPERATING ASSISTANCE FORMULA GRANTS

(Formula Grant Program)

FEDERAL AGENCY: URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

AUTHORIZATION: Urban Mass Transportation Act of 1964; Public Law 88-365, as amended through February 5, 1976; 49 U.S.C. 1601 et seq.

OBJECTIVES: To assist in financing the acquisition, construction, and improvement of facilities and equipment for use by operation or lease or otherwise in mass transportation service, and the payment of operating expenses to improve or to continue such service by operation, lease, contract or otherwise.

TYPES OF ASSISTANCE: Formula Grants.

USES AND USE RESTRICTIONS: Eligible Capital Assistance Projects may include the acquisition, construction or reconstruction of facilities and equipment for use in mass transportation, including designing, engineering, locating, surveying, mapping, acquisition of rights-of-way, relocation assistance, and acquisition and replacement of housing sites. An operating assistance project represents the eligible operating expenses incurred or projected during a local fiscal year by a mass transportation operator or system serving an urbanized area. Projects must be developed through a continuing cooperative and comprehensive urban transportation planning process, resulting in plans and programs for a unified or officially coordinated urban transportation system consistent with the planned development of the urban area.

FINANCIAL INFORMATION:

Account Identification: 69-4119-0-3-404.

Obligations: (Grants) FY 76 \$390,261,000; TO \$52,102,000; FY 77 est \$996,337,000 (includes \$346.3 million in carryover); and FY 78 est \$775,000,000.

Range and Average of Financial Assistance: Varies according to local programming of available formula funds and the level of operating expenses incurred.

20.309 RAILROAD REHABILITATION AND IMPROVEMENT-GUARANTEE OF OBLIGATIONS

FEDERAL AGENCY: FEDERAL RAILROAD ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION

AUTHORIZATION: Title V, Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976; Public Law 94-210.

OBJECTIVES: To provide financial assistance for the acquisition or rehabilitation and improvement of railroad facilities or equipment.

TYPES OF ASSISTANCE: Guaranteed/Insured Loans.

USES AND USE RESTRICTIONS: Funds received by applicants must be used for acquisition or rehabilitation and improvement of facilities or equipment. Equipment and facilities include locomotives, freight cars, track, roadbed and related structures, communication and power transmission systems, signals, yard and terminal facilities and shop or repair facilities.

FINANCIAL INFORMATION:

Account Identification: 21-4401-0-3-404.

Obligations: (Loans) FY 76 Not applicable; TO Not applicable; FY 77 est \$400,000,000; and FY 78 est \$200,000,000.

Range and Average of Financial Assistance: \$5,000,000 to \$60,000,000; \$20,000,000

20.310 RAILROAD REHABILITATION AND IMPROVEMENT-REDEEMABLE PREFERENCE SHARES

FEDERAL AGENCY: FEDERAL RAILROAD ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION

AUTHORIZATION: Title V, Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended; Public Law 94-210.

OBJECTIVES: To provide railroads with financial assistance for the rehabilitation and improvement of equipment and facilities or such other purposes approved by Secretary.

TYPES OF ASSISTANCE: Direct Payments for Specified Use.

USES AND USE RESTRICTIONS: Funds received by the railroads must be used for facilities maintenance, rehabilitation, improvement, acquisitions and other approved purposes. Eligible equipment and facilities include locomotives, freight cars, track roadbed and related structures, communication and power transmission system, signals, yard and terminal facilities, and shop or repair facilities.

FINANCIAL INFORMATION:

Account Identification: 21-4401-0-3-404.

Obligations: (Direct Payments) FY 76 Not Applicable; TO Not Applicable; FY 77 est \$120,000,000; and FY 78 est \$200,000,000.

Range and Average of Financial Assistance: Projects are expected to range from \$5,000,000 to \$60,000,000; \$20,000,000.

Excerpt from GAO Report On "Amtrak's Incentive Contracts
With Railroads -- Considerable Cost, Few Benefits"
CED-77-67 June 8, 1977

The Rail Passenger Service Act of 1970 (Public Law 91-518), as amended by the Amtrak Improvement Act of 1974 (45 U.S.C. 644 (supp. V 1975)), requires us to annually audit the performance of the National Railroad Passenger Corporation (Amtrak). This report, which reviews Amtrak's service and facility contracts, is our second under the statutes.

Amtrak was created by the Rail Passenger Service Act of 1970 as a for-profit corporation to operate and revitalize intercity passenger service--excluding commuter trains. The act requires that Amtrak use innovative operating and marketing concepts to fully develop the potential of rail service. On May 1, 1971, Amtrak began service over 21 domestic routes. The system later expanded to 37 routes including 4 serving Canada and Mexico. (See p. 8.)

Amtrak's operations are financed by passenger revenues, Government assistance, and railroad entry fees. Because passenger revenues cover only about 45 percent of operating expenses, Amtrak requires large Federal subsidies to remain operational. Amtrak has experienced steadily increasing deficits as shown below.

Fiscal year	Operating expenses	Operating revenues	Deficits
	----- (000 omitted) -----		-----
1971	\$ 45,301	\$ 22,645	\$ 22,656
1972	306,179	152,709	153,470
1973	319,151	177,303	141,848
1974	437,932	240,071	197,861
1975	559,807	246,459	313,348
1976	674,307	268,038	406,269
Transition quarter (estimate)	192,500	79,300	113,200
1977 (estimate)	811,300	301,000	510,300

As of April 30, 1978, Amtrak had received Federal appropriations totaling \$2.5 billion. In addition, \$875 million worth of capital expenditures had been authorized through federally guaranteed loans from the Federal Financing Bank. 1/

AMTRAK'S SERVICE AND FACILITY CONTRACTS

The Rail Passenger Service Act of 1970 offered private railroad companies then providing intercity passenger service the option of joining the Amtrak system or continuing

1/ Information updated through contact with John Hart, Federal Railroad Administration.

to provide service on their own. Twenty railroads agreed to join Amtrak and signed 25-year cost-reimbursement agreements which relieved them of responsibility for providing intercity passenger service. Five railroads chose not to operate under the Amtrak system.

The participating railroads paid Amtrak an "entry fee" of \$197 million which represented 50 percent of the intercity passenger operating losses incurred in 1969. Under the 25-year agreements, the railroads were to provide necessary services and personnel to operate Amtrak trains including train and engine crews, station personnel, equipment maintenance, and the right to operate Amtrak trains over their lines. Also, Amtrak had the option to either purchase or lease locomotives and cars from the railroads. In return, Amtrak was to reimburse the railroads for solely related and/or avoidable costs incurred in operating passenger trains.

After June 30, 1974, 10 railroads opted to sign 2-year first amendment agreements which changed the method of cost reimbursement. After 2 years, these railroads must negotiate new agreements. If Amtrak and the railroads cannot come to terms, the Interstate Commerce Commission (ICC) determines the basis for compensation.

As of March 1, 1977, 17 railroads¹ provided services to Amtrak under the following agreements:

<u>Type of agreement</u>	<u>Railroads involved</u>
Original agreement	7
First amendment agreement	7
Second amendment agreement	3

¹Burlington Northern
Chicago, Milwaukee, St. Paul
and Pacific (Milwaukee Road)
Boston and Maine
Delaware and Hudson
Seaboard Coast Line
Grand Trunk Western
Richmond, Fredricksburg
and Potomac
Louisville and Nashville

Texas and Pacific
Union Pacific
Southern Pacific
Norfolk and Western
Atchison, Topeka and
Santa Fe
Chessie System
Consolidated Rail
Corporation (ConRail)
Illinois Central Gulf
Missouri Pacific

CONRAIL

On April 1, 1976, the Consolidated Rail Corporation (Conrail) began operating major segments of the former Penn Central, Erie Lackawanna, Reading, Lehigh Valley, Lehigh and Hudson River, and Central of New Jersey railroads under a reorganization plan developed by the United States Railway Association (USRA) pursuant to the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 701). The purpose of this legislation was to restructure bankrupt railroads in the Northeast and Midwest sections of the country into an economically viable rail system.

The reorganization plan, known as the Final System Plan, was approved by the Congress on November 9, 1975. It provided for Government investment in Conrail of up to \$2.1 billion through the end of 1979 by the purchase of debentures and preferred stock. The Federal funds are being provided to supplement Conrail's own internal cash flow to operate and rehabilitate the properties acquired from the bankrupt railroads.

Source: GAO Report "Conrail's Attempts to Improve its Use of Freight Cars" January 24, 1978 (OED-78-23).

U.S. Purchase of Conrail Debentures and Preferred Stock

<u>Date</u>	<u>Debentures</u>	<u>Series A Preferred Stock</u>
	(000's omitted)	
April 1 to June 30, 1976	\$ 309,300	
July 1 to Sept. 30, 1976	309,300	
Sept. 30, 1976 to Sept. 30, 1977	381,400	\$ 31,300
Sept. 30, 1977 to June 30, 1978		541,000
Totals	<u>\$1,000,000</u>	<u>\$572,300</u>

Source: Chris Klose, Speech Writer, Public Affairs Office, U.S. Railway Association, April 1978.

ECONOMIC DEVELOPMENT ADMINISTRATION

11.300 ECONOMIC DEVELOPMENT-GRANTS AND
LOANS FOR PUBLIC WORKS AND DEVELOPMENT
FACILITIES

FEDERAL AGENCY: ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

AUTHORIZATION: Public Works and Economic Development Act of 1965; Public Law 89-136, as amended; 42 U.S.C. 3131, 3132, 3135, 3141, 3171.

OBJECTIVES: To assist in the construction of public facilities needed to initiate and encourage long-term economic growth in designated geographic areas where economic growth is lagging behind the rest of the Nation.

TYPES OF ASSISTANCE: Project Grants; Direct Loans.

USES AND USE RESTRICTIONS: Grants for such public facilities as water and sewer systems, access roads to industrial parks or areas, port facilities, railroad sidings and spurs, public tourism facilities, vocational schools, flood control projects, and site improvements for industrial parks. Qualified projects must fulfill a pressing need of the area and must: (1) tend to improve the opportunities for the successful establishment or expansion of industrial or commercial plants or facilities, (2) assist in the creation of additional long-term employment opportunities, or (3) benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964. In addition, proposed projects must be consistent with the currently approved overall economic development program for the area, and for the district, if any, in which it will be located. JOINT FUNDING: This program is considered particularly suitable (eligible) for joint funding with closely related Federal financial assistance programs in accordance with the provisions of OMB Circular No. A-111. For programs that are not identified as particularly suitable or eligible for joint funding, applicant may consult the headquarters or field office of the appropriate funding agency for further information on statutory or other restrictions involved.

FINANCIAL INFORMATION:

Account Identification: 13-2050-0-1-452.

Obligations: (Grants) FY 76 \$147,166,000; TO \$40,194,000; FY 77 \$149,000,000; and FY 78 est \$153,900,000. (Loans) FY 76 \$13,000; TO \$372,000; FY 77 \$2,500,000; and FY 78 est \$2,500,000.

Range and Average of Financial Assistance: No specific minimum or maximum project amount. \$5,000 to \$7,138,000; \$580,000.

11.301 ECONOMIC DEVELOPMENT-BUSINESS
DEVELOPMENT ASSISTANCE

FEDERAL AGENCY: ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

AUTHORIZATION: Public Works and Economic Development Act of 1965; Public Law 89-136, as amended; 42 U.S.C. 3142, 3171.

OBJECTIVES: To encourage industrial and commercial expansion in designated areas by providing financial assistance to businesses that create new permanent jobs, expand or establish plants in redevelopment areas for projects that cannot be financed through banks or other private lending institutions.

TYPES OF ASSISTANCE: Direct Loans; Guaranteed/Insured Loans.

USES AND USE RESTRICTIONS: Long-term business development loans up to 65 percent of the cost may be used for the acquisition of fixed assets only (i.e., land, building, machinery, and equipment, including land preparation and building rehabilitation). Funds may be used for most kinds of new industrial or commercial facilities or to expand one already in existence. Loans for working capital needs are not limited by statute, but are available only for short periods. In addition, the Government will guarantee up to 90 percent of the unpaid balance of loans for the acquisition of fixed assets or for working capital; and up to 90 percent of the rental payments required by the guaranteed lease.

FINANCIAL INFORMATION:

Account Identification: 13-2050-0-1-452.

Obligations: (Direct loans) FY 76 \$49,367,000; TO \$14,285,000; FY 77 est \$55,000,000; and FY 78 est \$49,500,000. (Guarantees) FY 76 \$6,425,000; TO \$2,413,000; FY 77 est \$3,000,000; and FY 78 est \$3,500,000.

Range and Average of Financial Assistance: \$260,000 to \$5,200,000; \$1,500,000

1.304 ECONOMIC DEVELOPMENT-PUBLIC
WORKS IMPACT PROJECTS

FEDERAL AGENCY: ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

AUTHORIZATION: Public Works and Economic Development Act of 1965; Public Law 89-136, as amended; 42 U.S.C. 3131, 3135.

OBJECTIVES: To provide immediate useful work to unemployed and underemployed persons in designated project areas.

TYPES OF ASSISTANCE: Project Grants.

USES AND USE RESTRICTIONS: Construction of public facilities to provide immediate jobs to the unemployed and underemployed in the project area. JOINT FUNDING: This program is considered particularly suitable (eligible) for joint funding with closely related Federal financial assistance programs in accordance with the provisions of OMB Circular No. A-111. For programs that are not identified as particularly suitable or eligible for joint funding, applicant may consult the headquarters or field office of the appropriate funding agency for further information on statutory or other restrictions involved.

FINANCIAL INFORMATION:

Account Identification: 13-2050-0-1-452.

Obligations: (Grants) FY 76 \$15,310,000; TO \$3,580,000; FY 77 \$15,000,000; and FY 78 est \$27,600,000.

Range and Average of Financial Assistance: Priority to projects of \$600,000 or less; \$220,000.

Continued...

11.308 GRANTS TO STATES FOR SUPPLEMENTAL AND BASIC FUNDING OF TITLES I, II, III, IV and IX ACTIVITIES

(Section 304 Grants)

FEDERAL AGENCY: ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

AUTHORIZATION: Public Works and Economic Developmental Act of 1965, Public Law 89-136, as amended; 42 U.S.C. 3131, 3132, 3141, 3142, 3153.

OBJECTIVES: To provide funds which will enable governors to select projects which will assist in the construction of public facilities and other projects which meet the criteria of Titles I, II, III, IV and IX and are needed to initiate or enhance long-term economic growth in areas of their states where economic growth is lagging. Activities must be in accordance with any pre-established plan.

TYPES OF ASSISTANCE: Project Grants; Direct Loans.

USES AND USE RESTRICTIONS: Through grants or loans monies may be used to construct such public works as water and sewer systems, industrial parks, access roads, port facilities, railroad sidings and spurs, public tourism facilities, vocational schools, and flood control projects or to provide business development loans. Projects assisted through the use of funds in supplementing EDA grants or loans under Title I, II, III, IV and IX of the Act or in providing basic grants or loans shall be subject to the same procedures and requirements relating to post-approval compliance, construction management, and disbursement as applicable to projects funded under Titles I, II, III, IV and IX of the Act. Qualified projects must fulfill a pressing need of the area and must: (1) tend to improve the opportunities for the successful establishment or expansion of industrial or commercial plants or facilities, (2) assist in the creation of additional long-term employment opportunities, or (3) benefit the long term unemployed and members of low-income families. In addition, proposed projects must be consistent with the currently approved over-all economic development program for the area, and for the district, if any, in which it will be located. Under Section 304, funds are apportioned to states based on statutory formula. Eligible projects which are selected by the states may be financed from these allocations. **JOINT FUNDING:** This program is considered particularly suitable (eligible) for joint funding with closely related Federal financial assistance programs in accordance with the provisions of OMB Circular No. A-111. For programs that are not identified as particularly suitable or eligible for joint funding, applicant may consult the headquarters or field office of the appropriate funding agency for further information on statutory or other restrictions involved.

FINANCIAL INFORMATION:

Account Identification: 13-2050-0-1-452.

Obligations: (Grants) FY 76 \$19,763,000; TO \$5,000,000; FY 77 \$20,000,000; and FY 78 est \$20,000,000.

Range and Average of Financial Assistance: \$1,000 to \$976,000 of the State apportionments, to remain available until expended.

11.309 TRADE ADJUSTMENT ASSISTANCE

(TAA)

FEDERAL AGENCY: ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

AUTHORIZATION: Title II of Trade Act of 1974. Public Law 93-618; 88 Stat. 1978; 19 U.S.C. 2101-2487 (1975).

OBJECTIVES: To provide adjustment assistance to firms and communities adversely affected by increased imports.

TYPES OF ASSISTANCE: Direct Loans; Guaranteed/Insured Loans; Dissemination of Technical Information.

USES AND USE RESTRICTIONS: Firms: Under Chapter 3 of Title II, a firm may petition the Economic Development Administration (EDA) of the Department of Commerce for certification as being impacted by import competition within the context of the Trade Act of 1974. Upon certification, the firm is eligible to apply to EDA for assistance. EDA approves the proposal by a firm for its economic recovery, and provides assistance to implement the recovery plans. Adjustment assistance from EDA for individual firms may be furnished through technical and financial assistance,

to be supplied separately or in combination. Financial assistance may be used for capital equipment, buildings, land, and for working capital purposes. No financial assistance is provided if funds are available from private sources on reasonable terms. Technical assistance, which is provided by contracting or consulting services, may be used to help develop, as well as implement, a firm's recovery proposal. Communities: To receive trade adjustment assistance from EDA, a community may either apply under the procedures provided pursuant to the Trade Act of 1974, including submission of a petition to EDA for certification of the community, or apply directly to EDA for specific economic adjustment assistance pursuant to Title IX of the Public Works and Economic Development Act of 1965, as amended ("PWEDA"). Upon certification pursuant to the Trade Act, a community not already designated pursuant to Title IV of PWEDA may request identification under the Trade Act, making it and firms located within its boundaries eligible to receive most kinds of assistance available to communities and firms designated pursuant to Title IV of PWEDA. Firms already designated under Title IV of PWEDA will gain little in the way of additional benefits by also receiving identification under the Trade Act, although such is permitted.

FINANCIAL INFORMATION:

Account Identification: 13-2050-0-1-452.

Obligations: (Loans, technical assistance and economic adjustment assistance) FY 76 \$6,835,000; TO \$2,441,000; FY 77 est

\$30,000,000; and FY 78 est \$22,000,000.

Range and Average of Financial Assistance: Firms: \$1,000,000 in direct loans and \$3,000,000 in loan guarantees under Chapter 3. Communities. No dollar limitation under Chapter 4.

OFFICE OF WATER AND HAZARDOUS WASTE**66.418 CONSTRUCTION GRANTS FOR
WASTEWATER TREATMENT WORKS**

FEDERAL AGENCY: OFFICE OF WATER AND HAZARDOUS MATERIALS, ENVIRONMENTAL PROTECTION AGENCY

AUTHORIZATION: Title II of the Federal Water Pollution Control Act, as amended; Public Law 92-500; 33 U.S.C. 1281(g)(1).

OBJECTIVES: To assist and serve as an incentive in construction of municipal sewage treatment works which are required to meet State and Federal water quality standards.

TYPES OF ASSISTANCE: Project Grants.

USES AND USE RESTRICTIONS: For construction of municipal wastewater treatment works. Such works may serve all or portions of individual communities, metropolitan areas, or regions. A project may include, but may not be limited to, treatment of industrial wastes. Grantee must require pretreatment of any industrial wastes which would otherwise be detrimental to efficient operation and maintenance, or grantee must prevent the entry of such waste into the treatment plant. The grantee must initiate an acceptable system of user charges, and in addition, recover capital costs insofar as they are associated with the treatment of industrial wastes. **JOINT FUNDING:** This program is considered particularly suitable (eligible) for joint funding with other closely related Federal financial assistance programs in accordance with the provisions of OMB Circular No. A-111. For programs that are not identified as particularly suitable or eligible for joint funding, applicant may consult the headquarters or field office of the appropriate funding agency for further information on statutory or other restrictions involved.

FINANCIAL INFORMATION:

Account Identification: 68-0103-0-1-304.

Obligations: (Grants) FY 76 \$4,265,892,000; TO \$681,554,000; FY 77 est \$6,600,000,000; and FY 78 est \$5,590,000,000.

Range and Average of Financial Assistance: \$675 to \$290,800,000; \$4,000,000.

Continued...

CED-78-24 April 3, 1978

The Federal Water Pollution Control Act Amendments of 1956 (Public Law 84-660) (70 Stat. 498) created the waste water treatment construction grant program. The act authorized grants for constructing treatment facilities to prevent untreated or inadequately treated sewage or other waste discharges into waterways. It authorized the grant recipient, or grantee, (State, municipality, or intermunicipal or interstate agency) to receive 30 percent in Federal assistance of the eligible project costs. Subsequent amendments to the act increased the Federal share up to a maximum of 55 percent. The Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) (33 U.S.C. 1251 et seq., Supp. V, 1975) established the Federal share at 75 percent of the eligible project costs and broadened the list of eligible project items.

The 1972 amendments established a national goal of eliminating the discharge of pollutants into navigable waters by 1985 and an interim goal of providing water quality sufficient for the protection of fish, shellfish, wildlife, and recreation by 1983. Publicly owned treatment works were required to achieve secondary treatment 1/ by July 1977 and to use the best practicable treatment technology by July 1983.

For fiscal years 1957 through 1972, the Congress authorized \$6.3 billion for the construction grant program, currently administered by the Environmental Protection Agency (EPA), and appropriated \$5.1 billion. About \$3.6 billion was actually obligated for construction projects and \$1.9 billion expended during this period.

To assist grantees in meeting the requirements of the 1972 amendments, the Congress provided \$18 billion for constructing waste treatment facilities. On October 1, 1976, the Congress increased funding for the program by appropriating \$480 million (Public Law 94-447) to be

1/Waste water treatment in which bacteria consume the organic parts of the waste. Effective secondary treatment removes virtually all floating and settleable solids and about 85 percent of the biochemical oxygen demand and suspended solids.

Continued...

available until expended. An additional \$1 billion was appropriated on May 4, 1977, (Public Law 95-26) to be available for fiscal years 1978 through 1980. As of September 30, 1977, EPA had obligated about \$18.1 billion of the total \$19.5 billion and had expended about \$6.3 billion.

The graph on the following page shows the annual appropriation or contract authority for the construction grant program from fiscal years 1957 through 1977.

In a July 12, 1977, letter to the Speaker of the House of Representatives, EPA proposed that the Congress authorize \$4.5 billion annually for the 9-year period from fiscal years 1978 through 1986 to fund 75 percent of the cost of constructing waste treatment plants, interceptors, combined sewer facilities, and infiltration/inflow corrections. In a February 1977 report to the Congress, EPA estimated that it would cost about \$96 billion to construct these structures to control municipal pollution, exclusive of stormwater runoff.

The 25-percent non-Federal share of project costs, plus costs ineligible for Federal participation, are borne by grantees except that the grantees' costs are sometimes reduced in those States that participate in paying part of the project costs. Twenty-nine of the 50 States had sharing programs at October 1977. (See app. I.)

Facilities authorized for construction under the program included treatment plants, interceptor and outfall sewers, pumping stations, power supplies, and other equipment. The 1972 amendments made collector sewer systems, combined storm and sanitary sewers, and recycled water supply facilities eligible for Federal assistance.

GRANT AWARD PROCEDURES

EPA's February 1974 regulations, developed pursuant to Public Law 92-500, provide for Federal participation in a treatment facility's costs through three separate grant awards:

- Step 1 grant - preparing facility (preliminary) plans.
- Step 2 grant - preparing design plans and specifications.
- Step 3 grant - constructing the treatment facility.

RURAL ELECTRIFICATION ADMINISTRATION**10.850 RURAL ELECTRIFICATION LOANS AND
LOAN GUARANTEES****(REA)****FEDERAL AGENCY: RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE****AUTHORIZATION: Titles I and III of the Rural Electrification Act of 1936, as amended; 7 U.S.C. 901-915, and 930-940.****OBJECTIVES: To assure that people in eligible rural communities have access to reliable electric service comparable in quality to urban areas.****TYPES OF ASSISTANCE: Guaranteed/Insured Loans.****USES AND USE RESTRICTIONS: Long-term, insured loans to qualified organization for the purpose of supplying central station electric service on a continuing basis in rural areas. REA also guarantees non-REA loans for the same purpose.****FINANCIAL INFORMATION:****Account Identification: 12-4230-0-3-305.****Obligations: (Insured loans) FY 76 \$750,000,000; TO \$187,500,000; FY 77 est \$850,000,000; and FY 78 est \$750,000,000. (Guaranteed loans) FY 76 \$1,241,553,000; TO \$403,845,000; FY 77 est \$5,000,000,000; and FY 78 est \$5,000,000,000.****Range and Average of Financial Assistance: (Insured loans) \$250,000 to \$20,000,000; \$1,250,000. (Guaranteed loans) \$10,000,000 to \$900,000,000; \$110,000,000.**

24.024 RESEARCH AND DEVELOPMENT IN NUCLEAR, SOLAR, GEOTHERMAL, AND ADVANCED ENERGY SYSTEMS, AND PHYSICAL, BIOMEDICAL, AND ENVIRONMENTAL SCIENCES

FEDERAL AGENCY: ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA)

AUTHORIZATION: Atomic Energy Act of 1954, as amended, Section 31; Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93-438; 88 Stat. 1240; 42 U.S.C. 5817.

OBJECTIVES: To provide financial support for basic and applied research and development and demonstration undertaken to discover new knowledge in fields related to energy or to develop certain aspects of the practical utilization of energy.

TYPES OF ASSISTANCE: Project Grants (Contracts).

USES AND USE RESTRICTIONS: Financial support, in whole or in part, may be provided for such purposes as salaries, materials and supplies, equipment, travel, publication costs, and services required for conducting the research and development. Restrictions on the use of funds depend on contract provisions. Support is provided for work in such fields as: biological, medical, and environmental sciences; environmental control technology; solar energy; geothermal energy; controlled thermonuclear research; nuclear reactor research, development, and demonstration; other nuclear research and applications; high-energy physics; basic nuclear science; basic materials science; and basic molecular science.

FINANCIAL INFORMATION:

Account Identification: 89-0100-0-1-999.

Obligations: (Grants and contract payments) FY 76 \$1,640,965,000; TQ \$474,451,000; FY 77 \$2,525,257,000; and FY 78 est \$2,880,731,000.

Range and Average of Financial Assistance: No limitation.

24.034 RESEARCH AND DEVELOPMENT IN FOSSIL ENERGY

FEDERAL AGENCY: ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA)

AUTHORIZATION: Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93-438, 88 Stat. 1240; 42 U.S.C. 5817.

OBJECTIVES: To assure the continued conduct of research and development and related activities in fields pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in fossil energy matters.

TYPES OF ASSISTANCE: Project Grants (Contracts).

USES AND USE RESTRICTIONS: Contracts may provide for a variety of cost-sharing and incentive arrangements, including awards to individual inventors, joint ownership of Federal-industry corporations, and cost-shared demonstration projects. Financial support, in whole or in part, may be provided for such purposes as salaries, materials, and supplies, equipment, travel, publication costs and services required for conducting research and development. Restrictions on the use of funds depend upon individual contract provisions. Support may be provided for work in such fields as: conversion of coals to liquids or gases; clean combustion of coals; in situ recovery of fossil energy products from coal or oil shales; research to increase the recovery of petroleum and natural gas from reservoirs; advanced electric power generating systems, magnetohydrodynamic electric power generation utilizing fossil fuels, in particular, coals; basic materials science; supporting technologies in the conversion and utilization of fossil energy resources.

FINANCIAL INFORMATION:

Account Identification: 89-0100-0-1-999; 89-0103-0-1-999.

Obligations: Total Fossil Energy (includes operating costs and plant and capital equipment obligations). FY 76 \$333,044,000; TQ \$150,546,000; FY 77 \$483,145,000; and FY 78 est \$639,900,000.

Range and Average of Financial Assistance: No limitation.

24.035 RESEARCH AND DEVELOPMENT IN ENERGY CONSERVATION

FEDERAL AGENCY: ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA)

AUTHORIZATION: Atomic Energy Act of 1954, as amended, Section 31; Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93-438; 88 Stat. 42 U.S.C. 5817.

OBJECTIVES: To provide financial support for basic and applied research and development undertaken to enhance present technology and develop new knowledge and procedures in the field of energy conservation.

TYPES OF ASSISTANCE: Project Grants (Contracts).

USES AND USE RESTRICTIONS: Financial support, in whole or in part, may be provided through industrial contracts and university grants for such purposes as salaries, materials and supplies, travel, publications costs, and services required for conducting the research and development. Restrictions on the use of funds depend on contract provisions. Support may be provided for research and development to (a) enhance the capability of electric power transmission and distribution systems by improving efficiency, reliability, economy, and environmental acceptability, (b) provide a basis for government decisions regarding alternative transportation systems, especially vehicle systems for the future, (c) develop energy storage techniques applicable to electric utilities and propulsion, and to new generating systems for energy forms not now in wide use, and (d) develop advance conversion systems to increase power plant efficiencies.

FINANCIAL INFORMATION:

Account Identification: 89-0100-0-1-999; 89-0103-0-1-999.

Obligations: (Total Conservation Budget includes operating cost and plant and capital equipment obligations) FY 76 \$68,284,000; TQ \$26,142,000; FY 77 \$160,850,000; and FY 78 est \$318,270,000.

Range and Average of Financial Assistance: No limitation.

UNITED STATES GENERAL ACCOUNTING OFFICE
Washington, D.C. 20548

FOR RELEASE ON DELIVERY
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STATEMENT OF

J. KENNETH FASICK

DIRECTOR, INTERNATIONAL DIVISION

BEFORE THE

HOUSE SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY

ON

THE BUY AMERICAN ACT

Mr. Chairman and Members of the Subcommittee:

We are pleased to have you consider the findings in our report "Governmental Buy-National Practices of the United States and Other Countries--An Assessment" which was issued to the Congress on September 30, 1976. While this report was issued in 1976, we are not aware of any developments that change our views as to the conclusions we made or invalidate any of the data we reported on at that time.

We are currently initiating an assignment for the House Congressional Steel Caucus that will provide us an opportunity to review Department of Defense procurement, particularly as it relates to steel and specialty steel products. Our 1976 report dealt solely with procurement at the Federal level. We will attempt, in response to the request of the House Congressional Steel Caucus, to

obtain information as to contract awards by States or their political subdivisions to foreign firms for steel products financed largely from Federal funds. We believe the information we will develop will help the Congress in its deliberations concerning the desirability or consequences of including these transactions under the aegis of the current Act.

Regarding other concerns surrounding the present Act, we have recently provided this Committee with comments on three bills and two proposed House resolutions. We are currently commenting on three other bills with similar provisions. The bills generally propose changes in (1) the basis for determining whether a product is domestic or foreign, and (2) the percent used to adjust foreign bids in the evaluation process.

Buy-National Practices
of Other Countries

Over the years, criticism has been directed at the United States for its restrictive Government purchasing policies--the Buy American Act and other buy-national legislation. It is inaccurate to conclude, however, that the United States is more restrictive than Great Britain, France, Germany, and Japan because of present buy-national legislation.

We found that these governments and nationalized industries also exclude most foreign competition when similar

items are available domestically. Rather than visible laws and regulations, however, these countries often rely on subtle administrative guidance and practices which effectively preclude most foreign competition.

The governments of Great Britain, France, Germany, and Japan generally maintain closed bidding systems and their procurement practices show a pervasive bias against foreign sources. None of the foreign government officials or U.S. businessmen we interviewed could identify any major imports by these countries of materials available from domestic sources.

Some reasons cited by their governmental officials for limiting procurement to domestic sources include (1) a traditional tendency to favor domestic sources due to familiarity and ease of dealing with local suppliers and the ready availability of service, maintenance, and repair parts; (2) a desire to protect domestic companies and jobs; and (3) the national aspirations among the European countries and Japan tending to encourage high-technology industries that are competitive with American technology.

U.S. Buy-National Policies

United States policies generally limit defense procurement to U.S. sources because of national security considerations; appropriation act limitations on textiles, subsistence items, specialty metals, and shipbuilding; and

a 50-percent price differential favoring U.S. suppliers. Foreign companies have opportunities to underbid U.S. firms for nondefense procurement if they overcome the 6- or 12-percent price differentials that favor U.S. suppliers.

Much government procurement is not subject to foreign competition, not because of the buy-national practices, but because domestic suppliers have tremendous inherent practical advantages--language, proximity, and familiarity. Existing superior U.S. technology in weapon systems is also an important factor in limiting competition.

Analysis of fiscal year 1974 procurement data from six U.S. Government agencies showed that, because of national security, specific legislation, and practical constraints, only 3 percent (\$1.3 billion) of the \$44.6 billion of procurement GAO reviewed was open to competition from both domestic and foreign sources. For the other 97 percent of the procurement, the sources of competition were either exclusively domestic or foreign.

It is not possible to accurately estimate the additional cost to the Government resulting from the Buy American Act and other buy-national barriers because of such unknown factors as what contractors would bid and what prices would be offered.

Also, product modifications, price fluctuations, scarcity periods, changing international economic and monetary

conditions, and other variables which are difficult to predict and evaluate make estimating the budgetary impact speculative.

Although the United States should work toward freer trade, GAO believes it is not desirable to make major concessions unilaterally to eliminate U.S. buy-national practices. Arrangements with U.S. trading partners to work toward freer trade, with due regard for national interests and safety, should:

- Be contingent on reciprocal actions by U.S. trading partners that will clearly result in opportunities for U.S. industry and labor to benefit from increased exports.
- Encourage a competitive domestic base by increasing competition from foreign sources on a price and quality basis.
- Provide for high visibility of procurement practices and surveillance and settlement mechanisms for implementing agreements.

The Buy American Act

The Buy American Act (41 U.S.C. §10a-10d) requires Federal agencies to procure domestic materials and products. There are, however, two conditions which must be present before the Buy American Act will apply.

First, the procurement must be intended for public use within the United States. Thus, for example, contracts to be performed at the U.S. base in Okinawa are not subject to the Buy American Act. Second, the items to be procured or

the materials from which they are manufactured must be present in the United States "in sufficient and reasonably available commercial quantities and of a satisfactory quality."

In addition, the provisions of the Buy American Act may be waived if the head of the procuring agency determines (1) the Act to be inconsistent with the public interest, or (2) if the cost of acquiring the domestic product is unreasonable. By Executive Order, if the price of a domestic product is more than 6 percent (or in some cases, 12 percent) than the foreign product, the cost of acquiring the domestic product is presumed to be unreasonable. The Department of Defense applies a 50 percent price differential. The price differentials are to be implemented only when there is effective price competition for a contract from both domestic and foreign suppliers.

It should be noted that contracts awarded by State and local authorities under Federal grant programs are not covered by the Buy American Act, unless the statute authorizing the Federal assistance to State and local authorities explicitly provides for application of the Buy American Act. We have identified only the Rural Electrification Act, as amended (7 U.S.C. 903 Note), the Public Works Employment Act of 1977 (Public Law 95-28, 91 Stat. 116), and the Clean Water Act of 1977 (Public Law 95-217, §39, December 27, 1977).

as currently imposing Federal Buy American-type requirements on procurements by State and local authorities.

Problems with Administering
the Buy American Act

The Buy American Act requires the U.S. Government to procure only those manufactured goods which (1) are "substantially all" from materials produced in the United States, and (2) are "manufactured" in the United States. The Act, however, fails to define these key terms.

"Substantially all" has been interpreted to mean that the cost of domestic components exceeds 50 percent of the cost of all components. Thus, if a federal agency is procuring microscopes, more than 50 percent of the cost of the components incorporated in the manufacture of that microscope must be domestic for it to be considered a U.S.-end product. If all the components were from the United States except the lens, but the lens comprised 51 percent of the microscope's cost, the microscope would be considered a foreign-end product.

The meaning of "manufactured in the United States" has not been resolved. Many factors appear to have been considered by contracting agencies and the Comptroller General in deciding whether an item is of U.S. manufacture. These include whether the process in question involves items which are to be directly incorporated into the end

product and whether substantial changes in the physical character of those items occur. When part of the manufacturing process occurs in the United States and part abroad, it is not settled (1) if where the later or last stages of manufacturing occur should control in determining whether the item is of U.S. or foreign manufacture, or (2) if the percentage of U.S. and foreign manufacture should be taken into consideration.

Let me give you an example of this dilemma--Softballs made entirely from materials produced in the United States but assembled in Haiti, where Haitians sewed U.S.-produced softball covers to U.S.-produced core materials using U.S.-produced needles and thread, were considered foreign-end products since the softballs were not manufactured in the United States. In that case, the services performed in Haiti constituted less than 3 percent of the product's cost.

When passed in 1933, in the wake of the depression, the Buy American Act was intended to help stimulate the U.S. economy and encourage U.S. employment. Under a system which permits 49 percent of the cost of the components of any end product to be foreign made and where U.S. manufacture may represent only a tiny fraction of the item's overall cost, it is at least questionable to what degree the domestic labor market and the economy are being aided by the Buy American program.

GAO's Recommendations

GAO made several recommendations to the Director, Office of Management and Budget, and the Administrator, Office of Federal Procurement Policy for mitigating some of the outstanding problems in administering the Buy American Act. In a letter to your committee dated December 7, 1976, the Administrator, Office of Federal Procurement Policy agreed with our recommendations and described their intended actions, none of which have been completed.

One recommendation called for amendment of the Executive Order implementing the Buy American Act to define "manufactured in the United States." The Administrator, Office of Federal Procurement Policy agreed to issue a clarification through implementing regulations to define the term "manufacture."

Another recommendation to the Administrator, Office of Federal Procurement Policy, in coordination with concerned agencies, would:

- Require, on a sampling basis, that Federal agencies request bidders in high-value procurements to disclose in their bids the percentage, the dollar value, and the nature of components of foreign origin delivered to the point of assembly of the finished products. It should be clearly stated that disclosure is sought for information purposes and, barring foreign component costs in excess of 50 percent of all components, will not be a factor in contract evaluation. The information will be useful both to the concerned agencies and to the Congress in evaluating the extent the price differentials should apply to foreign components in domestic procurements.

We believe a valid congressional concern exists as to what the facts are.

The Administrator, Office of Federal Procurement Policy reported to you on December 7, 1976, that his office would develop a reliable sampling procedure with several of the major procurement agencies to obtain the information. The Agency did not favor acquisition of this information in bids for the reason that reliable data on the origin of components or parts frequently is not available prior to contract award and because it violates the Agency's objective to simplify contractor bids and proposals. The Administrator noted that this information can be obtained on a one-time basis by contract administration activities located at contractor facilities. We believe that this effort should be made.

A recommendation that may be more difficult to resolve was to:

- Establish the same price differentials under the Buy American Act for both civilian and military agencies. Such price differentials should be periodically reviewed to both recognize a preference for U.S. sources and, contingent on reciprocal actions by our trading partners, to encourage domestic competition.

The Administrator, Office of Federal Procurement Policy reported to this committee that examination of the "price differential" area was undertaken by his office early in 1976,

and that comments were received from Government agencies, business firms, and industry associations which disclosed a wide divergence in views on this matter. He commented that his office would attempt to arrive at a common rule for all agencies to follow.

The Administrator agreed with our final recommendation to consider for inclusion in legislative proposals to the Congress raising to \$10,000 the minimum for procurement transactions that would be subject to requirements under the Buy American Act.

An agency official subsequently told us that actions on our recommendations are being held up because of trade negotiations that relate to these matters. We believe that work on these recommendations should proceed since they do not involve any unilateral concessions to our trading partners, but rather should mitigate some of the outstanding problems in administering the Buy American Act.

Recommendations to the Congress

In our 1976 report, we also recommended that congressional committees should review with the Department of Defense (1) whether the specialty metals provision in the Defense Appropriation Act has had any significant impact in increasing Government procurement of domestic specialty metals and (2) the consequence of this provision on efforts to arrange NATO standardization agreements, particularly

as it affects sales of U.S.-designed military weapons systems.

Public Law 95-111, enacted September 21, 1977, added a waiver provision that permits the Department of Defense, under certain conditions, to procure specialty metals produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO. The recent request from the House Congressional Steel Caucus asks, in part, that we provide them with information as to the use of the waiver under this new legislative provision.

Mr. Chairman, this concludes my prepared statement. We will be pleased to respond to any questions you may have.