

discernible. It is noted that no specific agency has been designated by the President as the place where complainants may present their cases for consideration or appeal so it is presumed that the BOB will exercise this function.

The subcommittee is of the belief that the BOB, backed by this new directive from the President thus augmenting its broad authority over the budgetary, legislative, organization, and management functions of the executive branch, should make effective progress in the future.

While the subcommittee has pressed for a more aggressive policy in leaving to the private sector those activities which are nongovernmental in nature, it also stresses the point that the Government must not by delegation, contract, default, or otherwise, permit the proper functions of Government to be exercised by the private sector. Also in the disposition of properties heretofore used in the production of commercial products or services, it is always necessary that a fair return be obtained to the Government.

Recommendation. No specific recommendation is made at this time pending the implementation of the new program, but the subject will be reviewed at the next hearing.

VI. PROCUREMENT AND REGULATION UNDER THE BUY AMERICAN ACT

Findings. In the formulation of an integrated national supply system (see p. 5) a high degree of cooperation has developed between the Department of Defense and the General Services Administration. A memorandum of agreement was executed in January 1964 by the parties.³² Secretary McNamara has stated his position before the subcommittee on several occasions that he favors having GSA procure civilian-type items for the DOD and GSA is performing well in this capacity.

In 1964, after lengthy discussions, the function of procurement of handtools generally was transferred from the DOD to GSA with apparent success. It now appears that this part of the national program may be in jeopardy owing to the lack of uniformity in the application of differentials under the Buy American Act. Briefly, the act provides that American products or products manufactured from materials substantially produced in the United States will be procured for public use by Federal agencies unless the department or establishment head determines that to do so would be inconsistent with public interest or the cost would be unreasonable.

Since the act does not specifically define "reasonable cost," the agency heads in the past have applied varying cost differentials when foreign items were considered for procurement.

In 1954 Executive Order 10582 was issued to bring about uniformity in the application of the Buy American Act.³³

However, the balance-of-payments problem has now caused a lack of uniformity to develop in the application of the Buy American Act with the result that the DOD permits a 50-percent differential in favor of American products (handtools) while GSA is allowed to use only a 6-percent differential.³⁴

The result is that foreign bidders, mostly Japanese, are obtaining awards from GSA with its 6-percent differential that would not be possible if the procurements were made by DOD.

³² Staff materials, 1965, p. 217.

³³ Hearings, 1966, app. 2, p. 217.

³⁴ Ibid., p. 138.