

audit rights provided are limited in scope and purpose, and are subject to modification or rescission by future regulations. Since the Government's postaudit rights are contractual in nature, they do not have the binding force of law.

RECOMMENDATIONS

2. Legislative action should be taken to insure postaudit rights of the Government under the Truth in Negotiations Act.

3. When audits reveal that defective cost or pricing data have been certified by a contractor, despite the fact that accurate, current and complete data were available to him, the case should be referred to the Justice Department for appropriate action.

4. The GAO and GSA should take steps to insure that other Federal agencies adopt the provisions of DOD Circular No. 57 as minimum standards for the awarding of negotiated contracts.

THE BUY AMERICAN ACT

The subcommittee has expressed its concern during the past several years over the inconsistent application of the Buy American Act. The act provides that materials for public use shall be purchased from U.S. manufacturers, except where it is determined that their purchase would be inconsistent with the public interest or their cost would be unreasonable. Inconsistency in its application continues.

The problem is that while most agencies utilize a 6-percent differential, and an additional 6 percent to "small business" or suppliers in an area of substantial unemployment, the DOD since 1962 has utilized a 50-percent differential. Thus in the purchase of the same item two agencies of the Federal Government may utilize widely separated differentials. The Bureau of the Budget has conceded that the situation is "a mess," but it has not acted to rectify it. The economic implications of these policies are antagonistic. The 6-percent differential permits greater purchases of foreign goods and thus operates against a favorable balance of payments. The 50-percent differential protects domestic manufacturers but increases costs of procurements and therefore militates against a balanced budget.

From the evidence it appears that the DOD's 50-percent differential raises a protective wall so high that American bidders may be encouraged to take advantage of it. It may also be self-defeating in the long run by pricing the protected items out of foreign markets and thus injuring our balance of payments. Further, the DOD's practice is placing a significant burden on the already extremely high level of defense procurement.

RECOMMENDATION

5. The Bureau of the Budget should issue a uniform policy for the guidance of Federal agencies and contractors regarding the use of price differentials under the Buy American Act.

PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT

In the past several years there has been phenomenal growth in the use by the Federal Government of automatic data processing