



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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APR 25 1978

The Honorable Jack Brooks
Chairman, Committee on
Government Operations
House of Representatives

Dear Mr. Chairman:

This is in reply to your letter of February 16, 1978, requesting our comments on bill H.R. 10881, 95th Congress, 2d Session, to amend the Act of October 29, 1949.

As presently written, the Buy American Act, 41 U.S.C. § 10a-d, and its implementing Executive Order 10582, 41 U.S.C. § 10d, require that the Government buy a domestically produced item rather than a comparable foreign-produced item unless the price of the foreign-produced item, adjusted by a specified percentage, is less. H.R. 10881 would amend section 633 of title VI of the Act of October 29, 1949, (41 U.S.C. § 10d) by adding, "the cost of articles, materials, or supplies manufactured in the United States shall not be deemed unreasonable if such cost does not exceed by more than 10 per centum the cost of like articles, materials, or supplies manufactured elsewhere."

Currently, the Federal Procurement Regulations and the Armed Services Procurement Regulation provide evaluation procedures for determining if a domestic end product is unreasonable in cost or inconsistent with the public interest. This determination is made by comparing the cost of a domestically produced item to an adjusted cost for a foreign-produced item. A foreign bid is adjusted by adding a factor of 6 percent of that bid inclusive of duty. If a domestically produced item is produced by a small business concern or a labor surplus area concern, a factor of 12 percent is added to the foreign bid. The Armed Services Procurement Regulation provides, as an alternative to the 6 and 12 percent adjustment factors, that each foreign bid may also be evaluated by excluding any duty from the foreign bid and adding 50 percent of the remainder to the bid. The evaluation method resulting in the highest adjusted price for the foreign bid is then used.

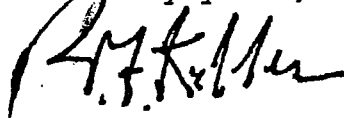
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If enacted without change, we believe the effect of the bill would be to raise the current minimum differential of 6 percent being applied by civilian and defense agencies to 10 percent. We do not, however, interpret the bill to require a change in the other differentials of 12 and 50 percent currently being used.

As in our report on "Governmental Buy-National Practices of the United States and Other Countries--an Assessment," (ID-76-67, 9/30/76), we recommend establishing the same price differentials under the Buy American Act for both civilian and defense agencies. We also believe that 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.

If you have any questions, we will be glad to discuss them with you or your staff.

Sincerely yours,



Deputy Comptroller General
of the United States