

DOCUMENT RESUME

06355 - [B1646658]

[DOD Foreign-Source Procurement at Prime Contract Level for Selected Products and Procurement Centers]. ID-78-42; B-162222; B-156489. May 18, 1978. 5 pp. + 3 enclosures (5 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.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (050) .

Organization Concerned: Department of Defense.

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

Authority: Buy American Act (41 U.S.C. 10) . Department of
Defense Appropriation Act [of] 1978 (10 U.S.C. 2304) .
A.S.P.R. 6-102.2. A.S.P.R. 6-104.4.

A review of Department of Defense (DOD) prime contract awards of \$10,000 and over for fiscal years 1975-77 was conducted to determine the amount of foreign purchases and the extent to which purchases were exempt from provisions of the Buy American Act. There was an increase of about \$322.5 million in DOD procurement of foreign-source supplies and equipment in 1977 over 1975. Foreign purchases consisted primarily of services, construction projects, and fuels which were either exempt from the act or which had little or no domestic competition. Of about \$4.5 billion of foreign supplies purchased from 1975 to 1977, about \$3.6 billion was for fuels and other petroleum-based products. Foreign purchases for supplies and equipment ranged from about 3.6% of total procurement at the Defense Industrial Supply Center in Philadelphia to about 1.1% at the Tank-Automotive Material Readiness Command in Detroit and 0.6% at Wright-Patterson Air Force Base. The extent of foreign procurement below the prime contract level is a matter of concern, and information related to such procurement should be obtained. (HTW)



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

INTERNATIONAL DIVISION

MAY 1 1978

B-162222
B-156489

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

Dear Mr. Chairman:

This is in further reference to the letter of February 9, 1978, to the Comptroller General from the Congressional Steel Caucus requesting our assistance in investigating matters relating to the Buy American Act (41 U.S.C. 10a-10d).

For items 1 and 5 to your request, as modified with your office, we reviewed Department of Defense computer runs of prime contract awards of \$10,000 and over for fiscal years 1975-77 to determine the amount of Defense's foreign purchases for U.S. Government programs, the extent to which such purchases were exempt from the provisions of the Buy American Act, and a breakdown by selected procurement centers.

The following is a summary of Defense's total and foreign procurement for fiscal years 1975-77.

Table with columns: Fiscal year (1975, 1976, 1977), Total, and rows for Total procurement, Foreign procurement (Supplies and equipment, Research and development, Construction, Services), and Foreign procurement as percent of total.

*1976 includes a 3-month transition period and these figures are for 15 rather than 12 months.

There was an increase of about \$322.5 million in Department of Defense procurement of foreign-source supplies and equipment in 1977 over 1975. The general product categories that had the largest dollar increases are as follows.

<u>Supplies and equipment</u>	<u>Fiscal year</u>		
	<u>1977</u>	<u>1975</u>	<u>Increase</u>
	----- (000 omitted) -----		
Oil and fuels	\$1,235,927	\$1,076,955	\$248,972
Ammunition and explosives	39,870	19,467	20,403
Subsistence	87,607	72,561	15,046
Aircraft and airframe structural components and accessories	16,961	2,920	14,041
Chemicals and chemical products	33,126	23,779	9,347
Prefabricated structures and scaffolding	13,040	7,987	5,053

Legislative and administrative provisions restrict the amount of supplies the Department of Defense may procure from foreign sources. These include security considerations and the Defense Department Appropriations Act restrictions on food, clothing, textiles, specialty metals, and shipbuilding.

Department of Defense foreign-source procurement is also restricted by the Buy American Act, which requires generally that Federal agencies procure domestic materials and products when (1) the procurement is intended for public use within the United States and (2) the items to be procured are available domestically in sufficient and reasonably available commercial quantities.

The provisions of the Buy American Act may be waived if the head of the procuring agency determines either that the cost of the domestic product is unreasonable or that domestic acquisition is inconsistent with the public interest.

The Department of Defense, according to ASPR 6-102.2, 6-104.4, presumes that a domestic bid is unreasonable and is inconsistent with the public interest if its cost is more than 50 percent higher than the foreign bid (exclusive of duty). A determination of "unreasonable" has been based on the price of the products. A prerequisite, therefore, to Defense's application of the 50-percent

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price differential to give preferred treatment to domestic products, is that the award is made under conditions allowing for price competition from both domestic and foreign sources.

Our review of Department of Defense foreign purchases at the prime contract level shows that they consisted primarily of services, construction projects, and fuels which were either exempt from the Buy American Act or which had little or no domestic competition. For example, most of the services purchased related to the operation and maintenance of Government-owned facilities; medical care for dependents; and utility, laundry, guard, janitorial, and custodial matters. These expenditures were made in support of U.S. forces overseas and would have been subject to little, if any, competition from U.S. sources. The construction projects for the most part were awarded to firms in the country where the construction was to be done.

About \$4.5 billion of foreign supplies and equipment was purchased from 1975 and 1977, but about \$3.6 billion of this was for fuels and other petroleum-based products (for which the United States is a net importer) and about \$264 million for subsistence items.

Enclosure I summarizes the foreign purchases of commodities and services which were exempt from the restrictions of the Buy American Act. During fiscal years 1975-77 only about \$124 million, or 1.4 percent of total foreign purchases, was awarded under conditions which would allow for price competition from both domestic and foreign sources. In these cases, the foreign firms were able to overcome the price differentials of the Buy American Act, were exempt from these price differentials under reciprocal or offset agreements, or were awarded the contract because domestic firms did not bid.

Enclosure II shows the amounts of domestic and foreign procurement (broken down by research and development, services, and supplies and equipment) by the three procurement centers identified in your request and by the Aeronautical Systems Division at Wright-Patterson Air Force Base in Dayton, Ohio.

Foreign purchases for supplies and equipment by these offices (including basic steel products) ranged from about 3.6 percent of total procurement at the Defense Industrial Supply Center in Philadelphia to about 1.1 percent at the U.S. Tank-Automotive Material Readiness Command in Detroit and 0.06 percent at Wright-Patterson Air Force Base. Enclosure III identifies the major foreign purchases of steel-related products for each of the four procurement centers.

In response to item 2 in your request questioning whether DOD procurement officers fail to show a required Buy-American preference, our updated analysis of Defense prime contract awards since our September 1976 report shows a continuing pronounced preference for U.S.-source products. In view of this and the results of our 1976 study showing procurement officers were complying with legislative Buy-American preferences, we do not see a need to make a selected examination of DOD prime contracts to determine reasons for foreign contract awards.

As you are probably aware, we are concerned about the extent of foreign procurement below the prime contract level. Our September 1976 report recommended that the Administrator, Office of Federal Procurement Policy, in coordination with concerned agencies:

"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 componentry 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 the Chairman, House Committee on Government Operations, on December 7, 1976, that his office and several of the major procurement agencies would develop a reliable sampling procedure to obtain the information. The Agency did not favor acquisition of this information in bids because 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 of simplifying contractor bids and proposals. The Administrator noted that this information can be obtained on a one-time basis by contract administration offices located at contractor facilities. Although this commitment was made in December 1976 we are not aware of any action being taken to obtain this information. We believe this effort should be made to provide needed information to assist Congress in its formulation of Buy-American policies.

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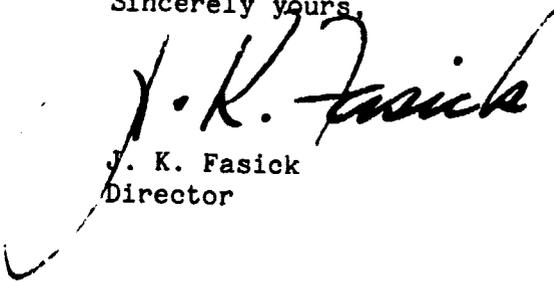
A provision was added to the Department of Defense Appropriation Act, 1978 (10 U.S.C. 2304 note) enacted September 21, 1977, that provides for Defense to obtain information related to awards below the prime contract level. A DOD official told us he expects such procurement information to be available for fiscal year 1979. All prime contractors receiving awards of \$500,000 or more and first-tier subcontractors in receipt of subcontracts from the prime contractor which exceed \$100,000 will provide information on any procurement in excess of \$10,000.

Such information should be useful in identifying foreign-source procurement exempt from the Buy American Act by the provision that permits the unrestricted purchase of foreign products provided that their cost does not exceed 50 percent of all components used in the end product. This information system should identify such awards for foreign components included in high-value end products (e.g., steel plates for ships) now permitted under this exemption.

We are working on questions 3 and 6 of your February 9 letter relating to Department of Defense procurement practices and on your April 21, 1978, inquiry and plan to respond on these matters in July. During further work on your requests, we will be obtaining information about Defense procurement under reciprocal agreements with Canada and the United Kingdom, and U.S. offset agreements with other countries.

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

DEPARTMENT OF DEFENSE FOREIGN-SOURCE PROCUREMENTEXEMPT FROM THE BUY AMERICAN ACT RESTRICTIONS

<u>Category</u>	<u>Reason for exemption/waiver</u>	<u>1975</u>	<u>1976a/</u>	<u>1977</u>	<u>Total</u>
		----- (000 omitted) -----			
Services	Performed overseas	\$1,041,239	\$1,371,786	\$1,223,746	\$3,636,771
Construction	Performed overseas	195,575	231,981	247,305	574,861
Oils and other fuels	Unavailable domestically in sufficient commercial quantities	1,076,955	1,229,122	1,325,927	3,632,004
Subsistence	Perishable food purchased overseas	<u>72,561</u>	<u>104,151</u>	<u>87,607</u>	<u>264,319</u>
		2,386,330	2,937,040	2,884,585	8,207,955
	Sole-source and other non-price competitive awards	<u>213,543</u>	<u>297,583</u>	<u>282,914</u>	<u>794,040</u>
Total		<u>\$2,599,873</u>	<u>\$3,234,623</u>	<u>\$3,167,499</u>	<u>\$9,001,995</u>
	Foreign procurement subject to price competition from both U.S. and foreign sources	<u>\$48,268</u>	<u>\$34,349</u>	<u>\$43,498</u>	<u>\$124,115</u>

a/ Plus transition quarter.

DOMESTIC AND FOREIGN PURCHASES BY PROCUREMENT CENTERSU.S. Army Tank-Automotive Material
Readiness Command, Detroit, Michigan

	<u>Fiscal year</u>			<u>Total</u>
	<u>1975</u>	<u>1976a/</u>	<u>1977</u>	
	----- (000 omitted) -----			
Supplies and equipment:				
Source of supply:				
Domestic	\$1,003,318	\$1,735,300	\$1,444,037	\$4,182,655
Foreign	<u>25,010</u>	<u>9,993</u>	<u>12,246</u>	<u>46,279</u>
Total	<u>\$1,028,358</u>	<u>\$1,744,293</u>	<u>\$1,456,283</u>	<u>\$4,228,934</u>
Foreign procurement as percent of total	2.43	0.52	0.84	1.09
Services:				
Source of supply:				
Domestic	\$20,033	\$88,609	\$91,691	\$200,333
Foreign	<u>1,065</u>	<u>792</u>	<u>521</u>	<u>2,378</u>
Total	<u>\$21,098</u>	<u>\$89,401</u>	<u>\$92,212</u>	<u>\$202,711</u>
Foreign procurement as percent of total	5.04	0.89	0.57	1.17
Research and development:				
Source of supply:				
Domestic	\$93,165	\$100,619	\$7,451	\$201,235
Foreign	<u>-0-</u>	<u>3,882</u>	<u>-0-</u>	<u>3,882</u>
Total	<u>\$93,165</u>	<u>\$104,501</u>	<u>\$7,451</u>	<u>\$205,117</u>
Foreign procurement as percent of total	0.0	3.71	0.0	1.89

a/ Plus transition quarter.

	Fiscal year			Total
	1975	1976a/	1977	
	----- (000 omitted) -----			

Defense Construction Supply Center, Columbus, Ohio

Supplies and equipment:

Source of supply:

Domestic	\$260,210	\$294,217	\$355,841	\$910,268
Foreign	<u>555</u>	<u>13,945</u>	<u>2,479</u>	<u>16,979</u>

Total	<u>\$260,765</u>	<u>\$308,162</u>	<u>\$358,320</u>	<u>\$927,247</u>
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Foreign procurement as percent of total	0.21	4.52	0.69	1.83
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Services:

Source of supply:

Domestic	\$3,709	\$4,342	\$5,388	\$13,439
Foreign	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

Total	<u>\$3,709</u>	<u>\$4,342</u>	<u>\$5,388</u>	<u>\$13,439</u>
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Foreign procurement as percent of total	0.0	0.0	0.0	0.0
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Research and development:

No foreign or domestic purchases were made under this category during these years.

Defense Industrial Supply Center Philadelphia, Pennsylvania

Supplies and equipment:

Source of supply:

Domestic	\$105,531	\$114,897	\$83,349	\$303,777
Foreign	<u>3,451</u>	<u>4,599</u>	<u>3,550</u>	<u>11,600</u>

Total	<u>\$108,982</u>	<u>\$119,496</u>	<u>\$86,899</u>	<u>\$315,377</u>
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Foreign procurement as percent of total	3.17	3.85	4.08	3.68
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Fiscal year			
1975	1976a/	1977	Total
----- (000 omitted) -----			

Services:

No foreign or domestic purchases were made under this category during these years.

Research and development:

No foreign or domestic purchases were made under this category during these years.

**Wright-Patterson Air Force Base,
Dayton, Ohio****Supplies and equipment:**

Source of supply:

Domestic	\$2,735,169	\$4,450,069	\$4,611,725	\$11,796,963
Foreign	<u>2.094</u>	<u>1.153</u>	<u>4.046</u>	<u>7.293</u>
Total	<u>\$2,737,263</u>	<u>\$4,451,222</u>	<u>\$4,615,771</u>	<u>\$11,804,256</u>

Foreign procurement as percent of total	0.08	0.02	0.09	0.06
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Services:

Source of supply:

Domestic	\$ 98,757	\$111,844	\$74,216	\$284,817
Foreign	<u>1.732</u>	<u>1.616</u>	<u>1.615</u>	<u>4.963</u>
Total	<u>\$100,489</u>	<u>\$113,460</u>	<u>\$75,831</u>	<u>\$289,780</u>

Foreign procurement as percent of total	1.72	1.42	2.13	1.71
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Research and development

Source of supply

Domestic	\$1,088,882	\$1,699,893	\$1,331,199	\$4,119,974
Foreign	<u>189</u>	<u>2.319</u>	<u>2.274</u>	<u>4.782</u>
Total	<u>\$1,089,071</u>	<u>\$1,702,212</u>	<u>\$1,333,473</u>	<u>\$4,124,756</u>

Foreign procurement as percent of total	0.02	0.14	0.17	0.12
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MAJOR FOREIGN PURCHASES OF STEEL RELATED PRODUCTS

	<u>Fiscal year</u>			<u>Total</u>
	<u>1975</u>	<u>1976</u>	<u>1977</u>	
	------(000 omitted)-----			
Defense Industrial Supply Center				
Supplies and Equipment:				
Rope, cable, chain and fittings	\$1,230	\$ 867	\$1,478	\$ 3,575
Electric wire, power distribution equipment	537	697	19	1,253
Metal bars, sheets and shapes	1,232	2,811	1,314	5,357
Defense Construction Supply Center				
Construction, mining and highway equipment	13	11,636	75	11,724
Pipe, tubing, hose and fittings	33	52	1,457	1,542
Valves	109	914	274	1,297
U.S. Army Tank-Automotive Material Readiness Command				
Ground effect vehicles, motor vehicles, cycles and trailers	13,353	5,791	3,356	22,500
Vehicles equipment, components	10,117	2,995	4,430	17,542
Material handling equipment	-0-	-0-	3,742	3,742
Wright-Patterson Air Force Base				
Fire control equipment	1,687	450	-19	2,118
Aircraft and airframe structural component	-0-	275	1,599	1,856
Training aids	-0-	-0-	1,981	1,981