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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-183079

OCT 27 1977

The Honorable Lawton Chiles  
Chairman, Subcommittee on Federal  
Spending Practices and Open  
Government  
Committee on Governmental Affairs  
United States Senate

Dear Mr. Chairman:

Your subcommittee furnished us a revised version of S. 1264/dated September 21, 1977, the "Federal Acquisition Act of 1977."

We note that section 509(c)(3) and (5) would still permit waivers, under certain conditions, of the provisions of the Cost Accounting Standards Act and the Renegotiation Act. We believe that the responsibility for granting waivers to Cost Accounting Standards should be left with the Cost Accounting Standards Board and waivers to the Renegotiation Act should be left with the Congress which is now reconsidering amendments to the act.

We have the following comments on additions or changes that have been made to the bill:

- Section 304(a)(2)(B) provides that notice of intent to award a contract stemming from an unsolicited proposal shall be publicized prior to the award. We believe that the act should require publication 30 days in advance of the award. The publication should be worded so as to avoid disclosing the methodology of the unsolicited proposal to other prospective contractors.
- Section 505 should provide that progress payments shall not exceed costs incurred and paid for by the contractor. In two cases in the past year, we found that progress payments had exceeded costs incurred by substantial amounts. This, in effect, resulted in interest-free loans by the Government to the contractors involved.
- Section 306(c) provides that inspections and examinations of contractor plants and records by executive agencies "shall be conducted only

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when necessary to insure contract performance and/or to evaluate the accuracy, completeness, and currency of data submitted or identified pursuant to section 305." We urge that the words "efficient and economical" be added before the words "contract performance." This would preclude questioning the legal basis for should-cost studies by executive agencies.

Our views on title VII of the bill were discussed with members of your staff by our General Counsel. We appreciate the opportunity to furnish these comments.

Sincerely yours,

R.F.KELLER

Acting Comptroller General  
of the United States

bc: Mr. Gutmann, PSAD  
Mr. Flynn, PSAL/GP  
Mr. Wolin, PSAL/GP  
Mr. Weinfeld, PSAD/GP  
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Index and Files

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