

PK Subject

17 June 1977

MEMORANDUM FOR: Office of Legislative Counsel

ATTENTION:

FROM:

Chief, Procurement Management Staff, OL

SUBJECT: H.R. 454 - Payment of Interest on Overdue
Payments to Small Business Firms

REFERENCE: R&RS dtd 9 June 77 to DD/A from OLC,
forwarding H.R. 454

1. Action Requested: It is requested that the Office of Legislative Counsel indicate to the House that this Agency nonconcurs with the subject legislation.

2. Background:

a. Some form of the subject resolution has been around on the Hill for at least a year. This is evident from the proposed language which requires promulgation of regulations not later than 1 July 1976 while the instant resolution is actually dated 4 January 1977. The law if passed would require that the Government pay interest of 12% per annum on overdue payments to suppliers which qualify as small businesses.

b. Motivation to pay small business or other invoices on a timely basis has been positive in the past. It has been in the form of a discount of usually from 1 to 5 per cent for payment within some specified period of time. A further motivation for the Government exists in the fact that continuing delinquent payment usually will encourage suppliers to increase their prices or stop doing business with the Agency involved.

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3. Staff Position: We believe that the following factor or questions should be considered prior to making any decision on the subject legislation:

a. Additional expense will accrue to the Government as a result of having to establish systems for identifying small business invoices from others. This will require more staffing.

b. Computational time will be necessary as Government personnel will be required to determine how late a payment is and apply the 12% factor to establish what penalty should be paid. Again, more Government personnel would be required.

c. Large numbers of man-hours will be expended in correcting accounting and financial records to reflect the amount actually paid versus the amount committed for the purchase order or contract.

d. The risk of violation of anti-deficiency laws will exist at year-end when the 12% factor could result in over-obligation of appropriated annual funds.

e. Contracting and paying office staffs will have to be enlarged because of time required to resolve with vendors any disagreement over amounts of penalties.

f. The extra expense which will result from contracting with small business firms, if H.R. 454 is passed, could encourage Government buyers to buy less from them.

g. Negative motivation, i.e., punishing an individual or business entity to encourage positive behavior has not proven successful in other areas; and we do not believe it is the right way to go on this issue.

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4. Recommendation: While this Agency supports the objective of our small business programs and is dependent on large numbers of small business entities, we believe for the reasons stated above that H.R. 454 should not be passed. It will result in larger Government staffs and additional expense while not achieving its objective. Other methods than those proposed in H.R. 454 should be studied which would compensate small business suppliers for delinquent Government remittance.




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