

Public Law 93-400

August 30, 1974
[S. 2510]

AN ACT

To establish an Office of Federal Procurement Policy within the Office of Management and Budget, and for other purposes.

Office of Federal Procurement Policy Act,
41 USC 401
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Office of Federal Procurement Policy Act".

DECLARATION OF POLICY

41 USC 401.

SEC. 2. It is declared to be the policy of Congress to promote economy, efficiency, and effectiveness in the procurement of property and services by and for the executive branch of the Federal Government by—

- (1) establishing policies, procedures, and practices which will require the Government to acquire property and services of the requisite quality and within the time needed at the lowest reasonable cost, utilizing competitive procurement methods to the maximum extent practicable;
- (2) improving the quality, efficiency, economy, and performance of Government procurement organizations and personnel;
- (3) avoiding or eliminating unnecessary overlapping or duplication of procurement and related activities;
- (4) avoiding or eliminating unnecessary or redundant requirements placed on contractor and Federal procurement officials;
- (5) identifying gaps, omissions, or inconsistencies in procurement laws, regulations, and directives and in other laws, regulations, and directives, relating to or affecting procurement;
- (6) achieving greater uniformity and simplicity, whenever appropriate, in procurement procedures;
- (7) coordinating procurement policies and programs of the several departments and agencies;
- (8) minimizing possible disruptive effects of Government procurement on particular industries, areas, or occupations;
- (9) improving understanding of Government procurement laws and policies within the Government and by organizations and individuals doing business with the Government;
- (10) promoting fair dealing and equitable relationships among the parties in Government contracting; and
- (11) otherwise promoting economy, efficiency, and effectiveness in Government procurement organizations and operations.

FINDINGS AND PURPOSE

41 USC 402.

SEC. 3. (a) The Congress finds that economy, efficiency, and effectiveness in the procurement of property and services by the executive agencies will be improved by establishing an office to exercise responsibility for procurement policies, regulations, procedures, and forms.

(b) The purpose of this Act is to establish an Office of Federal Procurement Policy in the Office of Management and Budget to provide overall direction of procurement policies, regulations, procedures, and forms for executive agencies in accordance with applicable laws.

DEFINITION

SEC. 4. As used in this Act, the term "executive agency" means an executive department, a military department, and an independent establishment within the meaning of sections 101, 102, and 104(1), respectively, of title 5, United States Code, and also a wholly owned Government corporation within the meaning of section 101 of the Government Corporation Control Act (31 U.S.C. 846).

41 USC 403.

OFFICE OF FEDERAL PROCUREMENT POLICY

SEC. 5. (a) There is established in the Office of Management and Budget an office to be known as the Office of Federal Procurement Policy (hereinafter referred to as the "Office").

Establishment.
41 USC 404.

(b) There shall be at the head of the Office an Administrator for Federal Procurement Policy (hereinafter referred to as the "Administrator"), who shall be appointed by the President, by and with the advice and consent of the Senate.

AUTHORITY AND FUNCTIONS

SEC. 6. (a) The Administrator shall provide overall direction of procurement policy. To the extent he considers appropriate and with due regard to the program activities of the executive agencies, he shall prescribe policies, regulations, procedures, and forms, which shall be in accordance with applicable laws and shall be followed by executive agencies (1) in the procurement of—

41 USC 405.

- (A) property other than real property in being;
- (B) services, including research and development; and
- (C) construction, alteration, repair, or maintenance of real property;

and (2) in providing for procurement by recipients of Federal grants or assistance of items specified in clauses (A), (B), and (C) of this subsection, to the extent required for performance of Federal grant or assistance programs.

(b) Nothing in subsection (a) (2) shall be construed—

- (1) to permit the Administrator to authorize procurement or supply support, either directly or indirectly, to recipients of Federal grants or assistance; or
- (2) to authorize any action by recipients contrary to State and local laws, in the case of programs to provide Federal grants or assistance to States and political subdivisions.

(c) The authority of the Administrator under this Act shall apply only to procurement payable from appropriated funds: *Provided*, That the Administrator undertake a study of procurement payable from nonappropriated funds. The results of the study, together with recommendations for administrative or statutory changes, shall be reported to the President of the Senate and the Speaker of the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act.

Procurement
study.
Report to Presi-
dent of the
Senate and
Speaker of the
House.

(d) The functions of the Administrator shall include—

- (1) establishing a system of coordinated, and to the extent feasible, uniform procurement regulations for the executive agencies;
- (2) establishing criteria and procedures for an effective and timely method of soliciting the viewpoints of interested parties in the development of procurement policies, regulations, procedures, and forms;

(3) monitoring and revising policies, regulations, procedures, and forms relating to reliance by the Federal Government on the private sector to provide needed property and services;

(4) promoting and conducting research in procurement policies, regulations, procedures, and forms;

(5) establishing a system for collecting, developing, and disseminating procurement data which takes into account the needs of the Congress, the executive branch, and the private sector;

(6) recommending and promoting programs of the Civil Service Commission and executive agencies for recruitment, training, career development, and performance evaluation of procurement personnel.

Consultation with executive agencies and SBA.

(e) In the development of policies, regulations, procedures, and forms to be authorized or prescribed by him, the Administrator shall consult with the executive agencies affected, including the Small Business Administration and other executive agencies promulgating policies, regulations, procedures, and forms affecting procurement. To the extent feasible, the Administrator may designate an executive agency or agencies, establish interagency committees, or otherwise use agency representatives or personnel, to solicit the views and the agreement, so far as possible, of executive agencies affected on significant changes in policies, regulations, procedures, and forms.

(f) The authority of the Administrator under this Act shall not be construed to—

(1) impair or interfere with the determination by executive agencies of their need for, or their use of, specific property, services, or construction, including particular specifications therefor; or

(2) interfere with the determination by executive agencies of specific actions in the award or administration of procurement contracts.

Restriction.

(g) Except as otherwise provided by law, no duties, functions, or responsibilities, other than those expressly assigned by this Act, shall be assigned, delegated, or transferred to the Administrator.

ADMINISTRATIVE POWERS

41 USC 406.

SEC. 7. Upon the request of the Administrator, each executive agency is directed to—

(1) make its services, personnel, and facilities available to the Office to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Administrator and give him access to all information and records in its possession which the Administrator may determine to be necessary for the performance of the functions of the Office.

RESPONSIVENESS TO CONGRESS

41 USC 407.

Report to President of the Senate and Speaker of the House.

SEC. 8. (a) The Administrator shall keep the Congress and its duly authorized committees fully and currently informed of the major activities of the Office of Federal Procurement Policy, and shall submit a report thereon to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as may be necessary for this purpose, together with appropriate legislative recommendations.

Report to congressional committees.

(b) At least 30 days prior to the effective date of any major policy or regulation prescribed under section 6(a), the Administrator shall

transmit to the Committees on Government Operations of the House of Representatives and of the Senate a detailed report on the proposed policy or regulation. Such report shall include—

- (1) a full description of the policy or regulation;
- (2) a summary of the reasons for the issuance of such policy or regulation; and
- (3) the names and positions of employees of the Office who will be made available, prior to such effective date, for full consultation with such Committees regarding such policy or regulation.

(c) In the case of an emergency, the President may waive the notice requirement of subsection (b) by submitting in writing to the Congress his reasons therefor at the earliest practicable date on or before the effective date of any major policy or regulation.

Notice requirement waiver, submittal to Congress.

EFFECT ON EXISTING LAWS

SEC. 9. The authority of an executive agency under any other law to prescribe policies, regulations, procedures, and forms for procurement is subject to the authority conferred in section 6 of this Act.

41 USC 408.

EFFECT ON EXISTING REGULATIONS

SEC. 10. Procurement policies, regulations, procedures, or forms in effect as of the date of enactment of this Act shall continue in effect, as modified from time to time, until repealed, amended, or superseded by policies, regulations, procedures, or forms promulgated by the Administrator.

41 USC 409.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated to carry out the provisions of this Act, and for no other purpose—

41 USC 410.

(1) not to exceed \$2,000,000 for the fiscal year ending June 30, 1975, of which not to exceed \$150,000 shall be available for the purpose of research in accordance with section 6(d)(4); and

(2) such sums as may be necessary for each of the four fiscal years thereafter.

Any subsequent legislation to authorize appropriations to carry out the purposes of this Act shall be referred in the Senate to the Committee on Government Operations.

DELEGATION

SEC. 12. (a) The Administrator may delegate, and authorize successive redelegations of, any authority, function, or power under this Act, other than his basic authority to provide overall direction of Federal procurement policy and to prescribe policies and regulations to carry out that policy, to any other executive agency with the consent of such agency or at the direction of the President.

41 USC 411.

(b) The Administrator may make and authorize such delegations within the Office as he determines to be necessary to carry out the provisions of this Act.

ANNUAL PAY

SEC. 13. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

“(100) Administrator for Federal Procurement Policy.”

ACCESS TO INFORMATION

41 USC 412.

SEC. 14. (a) The Administrator and personnel in his Office shall furnish such information as the Comptroller General may require for the discharge of his responsibilities. For this purpose, the Comptroller General or his representatives shall have access to all books, documents, papers, and records of the Office.

Open public meetings, notice.

(b) The Administrator shall, by regulation, require that formal meetings of the Office, as designated by him, for the purpose of establishing procurement policies and regulations shall be open to the public, and that public notice of each such meeting shall be given not less than ten days prior thereto.

REPEALS AND AMENDMENTS

SEC. 15. The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended as follows:

(1) Section 201(a)(1) of such Act (40 U.S.C. 481(a)(1)) is amended by inserting "subject to regulations prescribed by the Administrator for Federal Procurement Policy pursuant to the Office of Federal Procurement Policy Act," immediately after "(1)".

(2) Section 201(c) of such Act (40 U.S.C. 481(c)) is amended by inserting "subject to regulations prescribed by the Administrator for Federal Procurement Policy pursuant to the Office of Federal Procurement Policy Act," immediately after "Administrator,".

(3) Section 206(a)(4) of such Act (40 U.S.C. 487(a)(4)) is amended to read as follows: "(4) subject to regulations promulgated by the Administrator for Federal Procurement Policy pursuant to the Office of Federal Procurement Policy Act, to prescribe standardized forms and procedures, except such as the Comptroller General is authorized by law to prescribe, and standard purchase specifications."

(4) Section 602(c) of such Act (40 U.S.C. 474) is amended in the first sentence thereof by inserting "except as provided by the Office of Federal Procurement Policy Act, and" immediately after "herewith,".

Approved August 30, 1974.

Public Law 93-401

August 30, 1974
[S. J. Res. 222]

JOINT RESOLUTION

To provide for the appointment of Doctor Murray Gell-Mann as citizen regent of the Board of Regents of the Smithsonian Institution

Smithsonian
Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Doctor Crawford H. Greenewalt of Wilmington, Delaware, on May 30, 1974, be filled by the appointment of Doctor Murray Gell-Mann of California for the statutory term of six years.

Approved August 30, 1974.