Pars. (1) to (3). Pub. L. 103–355, § 8001(b)(2), (3), substituted “The term” for “the term” and period for semicolon at end.

Pars. (4) to (9). Pub. L. 103–355, § 8001(b)(2), (3), substituted “The term” for “the term” and period for “;” and end.

Pars. (10) to (12). Pub. L. 103–355, § 8001(b)(2), (4), substituted “the term” for “The term” and period for “;” at end.

Pars. (5) to (10). Pub. L. 103–355, § 8001(b)(2), (3), substituted “The term” for “the term” and period for semicolon at end.

Pars. (11). Pub. L. 103–355, § 8001(b)(2), which directed substituted “The term” for “the term” in par. (11), could not be executed because phrase “the term” did not appear subsequent to amendment by Pub. L. 103–355, § 8001. See below.


1988—Pars. (4) to (11). Pub. L. 100–679 redesignated pars. (5) to (11) as (4) to (10), respectively, and struck out former par. (4) which defined “single system of Government-wide procurement regulations” for purposes of this chapter.


Pars. (9) to (11). Pub. L. 98–577 added pars. (9) to (11).


1979—Pub. L. 96–83 redesignated existing provisions as subsec. (a) and added subsec. (b).

Effective Date of 1996 Amendment
For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 251 of this title.

Effective Date of 1994 Amendment
For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of this title.

Effective Date of 1979 Amendment

Modification of Federal Acquisition Regulations

§ 404. Establishment of Office of Federal Procurement Policy; appointment of Administrator
(a) There is in the Office of Management and Budget an Office of Federal Procurement Policy (hereinafter referred to as the “Office”) to provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies and to promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government.

(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.


Amendments
1996—Subsec. (a). Pub. L. 104–106 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There is established in the Office of Management and Budget an Office of Federal Procurement Policy (hereinafter referred to as the ‘Office’).”

Effective Date of 1996 Amendment
For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 251 of this title.

§ 405. Authority and functions of the Administrator
(a) Development of procurement policy; leadership
The Administrator shall provide overall direction of procurement policy and leadership in the development of procurement systems of the executive agencies. To the extent that the Administrator considers appropriate, in carrying out the policies and functions set forth in this chapter, and with due regard for applicable laws and the program activities of the executive agencies, the Administrator may prescribe Government-wide procurement policies. These policies shall be implemented in a single Government-wide procurement regulation called the Federal Acquisition Regulation and shall be followed by executive agencies in the procurement of—

(1) property other than real property in being;

(2) services, including research and development; and

(3) construction, alteration, repair, or maintenance of real property.

(b) Government-wide procurement regulations
In any instance in which the Administrator determines that the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration are unable to agree on or fail to issue Government-wide procurement regulations, procedures and forms in a timely manner, including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a) of this section, the Administrator shall, with due regard for applicable laws and the program activities of the executive agencies and consistent with the policies and functions set forth in this chapter, prescribe Government-wide regulations, procedures and forms which shall be followed by executive agencies in the procurement of—

(1) property other than real property in being;

(2) services, including research and development; and
§ 405

(c) **Noninterference with executive agencies**

The authority of the Administrator under this chapter 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.

(d) **Enumeration of included functions**

The functions of the Administrator shall include—

1. providing leadership and ensuring action by the executive agencies in the establishment, development and maintenance of the single system of simplified Government-wide procurement regulations and resolving differences among the executive agencies in the development of simplified Government-wide procurement systems standards that shall be implemented by the executive agencies in their procurement systems;
2. providing leadership and coordination in the formulation of the executive branch position on legislation relating to procurement;
3. providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and
4. ensuring executive agency compliance with the record requirements of section 417 of this title;
5. providing for and directing the activities of the Federal Acquisition Institute (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to—
   A. foster and promote the development of a professional acquisition workforce Government-wide;
   B. promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to acquisition by the executive agencies;
   C. collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;
   D. periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;
   E. coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;
6. developing standard contract forms and contract language in order to reduce the Government's cost of procuring property and services and the private sector's cost of doing business with the Government;
7. providing for a Government-wide award threshold; and
8. administering the provisions of section 433 of this title;
9. establishing criteria and procedures to ensure the effective and timely solicitation of the viewpoints of interested parties in the development of procurement policies, regulations, procedures, and forms;
10. developing standard contract forms and contract language in order to reduce the Government’s cost of procuring property and services and the private sector’s cost of doing business with the Government;
11. developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses, qualified HUBZone small business concerns (as defined in section 632(p) of title 15), small businesses owned and controlled by socially and economically disadvantaged individuals, and small businesses owned and controlled by women are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;
12. developing policies that will promote achievement of goals for participation by small businesses, qualified HUBZone small business concerns (as defined in section 632(p) of title 15), small businesses owned and controlled by socially and economically disadvantaged individuals, and small businesses owned and controlled by women; and
13. completing action, as appropriate, on the recommendations of the Commission on Government Procurement.

(e) **Consultation; assistance of existing executive agencies; advisory committees and interagency groups**

In carrying out the functions set forth in subsection (d) of this section, the Administrator—

1. shall consult with the affected executive agencies, including the Small Business Administration;
2. may, with the concurrence of the heads of affected executive agencies, designate an executive agency or executive agencies to assist in the performance of such functions; and
(3) may establish advisory committees or other interagency groups to assist in providing for the establishment, development, and maintenance of a single system of simplified Government-wide procurement regulations and to assist in the performance of any of the other functions which the Administrator considers appropriate.

(f) Oversight of regulations promulgated by other agencies relating to procurement

The Administrator, with the concurrence of the Director of the Office of Management and Budget, and with consultation with the head of the agency or agencies concerned, may deny the promulgation of or rescind any Government-wide regulation or final rule or regulation of any executive agency relating to procurement if the Administrator determines that such rule or regulation is inconsistent with any policies, regulations, or procedures issued pursuant to subsection (a) of this section.

(g) Assignment, delegation, or transfer of functions prohibited

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

(h) Real property procurement; Office of Management and Budget

Nothing in this chapter shall be construed to—

(1) impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 1 with respect to the procurement of real property;

(2) limit the current authorities and responsibilities of the Director of the Office of Management and Budget.

(i) Recipients of Federal grants or assistance

(1) With due regard to applicable laws and the program activities of the executive agencies administering Federal programs of grants or assistance, the Administrator may prescribe Government-wide policies, regulations, procedures, and forms which the Administrator considers appropriate and which shall be followed by such executive agencies in providing for the procurement, to the extent required under such programs, of property or services referred to in clauses (1), (2), and (3) of subsection (a) of this section by recipients of Federal grants or assistance under such programs.

(2) Nothing in paragraph (1) shall be construed to—

(A) permit the Administrator to authorize procurement or supply support, either directly or indirectly, to recipients of Federal grants or assistance; or

(B) authorize any action by such recipients contrary to State and local laws, in the case of programs to provide Federal grants or assistance to States and political subdivisions.

(j) Policy regarding consideration of contractor past performance

(1) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary;

(C) policies for ensuring that—

(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

(ii) such information submitted by offerors is considered; and

(D) the period for which information on past performance of offerors may be maintained and considered.

(2) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.

(k) Annual reporting requirement

The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy regarding major acquisitions that is stated in section 263(a) of this title. The Administrator shall use data from existing management systems in making the assessment.

(1) With due regard to applicable laws and the program activities of the executive agencies administering Federal programs of grants or assistance, the Administrator may prescribe Government-wide policies, regulations, procedures, and forms which the Administrator considers appropriate and which shall be followed by such executive agencies in providing for the procurement, to the extent required under such programs, of property or services referred to in clauses (1), (2), and (3) of subsection (a) of this section by recipients of Federal grants or assistance under such programs.

References in Text

III of the Act, which is classified generally to sub-
chapter IV (§251 et seq.) of chapter 4 of this title, the
Act was repealed and reenacted by Pub. L. 107-217, §§ 1,
6, Aug. 16, 2002, 116 Stat. 1062, 1082, as chapters 1 to
11 of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

substituted semicolon for period at end.

re-aligned margins.

“qualified HUBZone small business concerns (as de-
fined in section 623(p) of title 15),” after “ensure that
small businesses,”.

“qualified HUBZone small business concerns (as de-
fined in section 623(p) of title 15),” after “participation
by small businesses.”

Pub. L. 105-85, § 1073(g)(2)(B)(iii), substituted “small
businesses” for “small business” after “individuals,
and”.

Subsec. (k). Pub. L. 105-85, § 851(b), inserted “regard-
ing major acquisitions that” after “implementing the
policy”.

out second comma after “subsection (a) of this sec-
tion”.

Subsec. (d)(5)(A). Pub. L. 104-106, § 4307(b)(2)(A), sub-
stituted “the development of a professional acquisition
workforce Government-wide” for “Government-wide career
management programs for a professional procure-
ment work force”.

Subsec. (d)(5)(B). Pub. L. 104-106, § 4307(b)(2)(B), sub-
stituted “acquisition by the” for “procurement by the”.

Subsec. (d)(5)(C) to (J). Pub. L. 104-106, § 4307(b)(2)(B)(ii), (iii), added subpars. (C) to (J) and struck out former
subpars. (C) to (J) which read as follows: “establish policies and procedures for the establish-
ment and implementation of education and training
programs authorized by this chapter, including the es-

tablishment and implementation of training, in con-
junction with the General Services Administration,
for critical procurement personnel designed to increase the
participation of small business concerns owned and
controlled by socially and economically disadvantaged
individuals, women, and other minorities in procure-
ment activities conducted by an executive agency.”

(6). Former par. (6) redesignated (7).

Subsec. (d)(7) to (10). Pub. L. 104-106, § 4307(b)(4), re-
designated pars. (6) to (9) as (7) to (10), respectively.
Former par. (10) redesignated (11).

Subsec. (d)(11). Pub. L. 104-106, § 4321(b)(2), which di-
rected substitution of “small businesses” for “small
business”, could not be executed because the words
“small business” did not appear.

Pub. L. 104-106, § 4307(b)(1), redesignated par. (10) as
(11). Former par. (11) redesignated (12).

Subsec. (d)(12). Pub. L. 104-106, § 4307(b)(5), redesign-
ated par. (11) as (12). Former par. (12) redesignated (13).

Subsec. (d)(13). Pub. L. 104-106, § 4321(b)(1), which di-
rected transferring par. (12) to end of subsec. (d), was
executed by transferring par. (13) to end of subsec. (d)
to reflect the probable intent of Congress and the redes-

Pub. L. 104-106, § 4307(b)(1), redesignated par. (13) as
(12).

Subsec. (f). Pub. L. 104-201 struck out “the policies set forth in section 401 of this title or” after “inconsistent
with”.

Subsec. (h)(1). Pub. L. 104-106, § 5067(d), struck out “of
automatic data processing and telecommunications
equipment and services or” after “with respect to the
procurement”.

subpar. (C).

Subsec. (d)(8), (9). Pub. L. 103-355, § 5091, added pars.
(8) and (9) at end. Former par. (8) redesignated (12).

Subsec. (d)(10), (11). Pub. L. 103-355, § 7108(a), added
pars. (10) and (11).

pars. (8) and (12).

(j).

(k).

1988—Subsec. (a). Pub. L. 100-679, § 3(a)(1), substituted
“procurement policies. These policies shall be imple-
mented in a single Government-wide procurement regu-
lation called the Federal Acquisition Regulation and
shall be” for “procurement policies which shall be im-
plemented in the single system of Government-wide
procurement regulations and shall be”.

Subsec. (b). Pub. L. 100-679, § 3(a)(2), inserted
“including any such regulations, procedures, and
forms as are necessary to implement prescribed policy
initiated by the Administrator under subsection (a) of
this section, ” after “timely manner” and substituted
“Administrator shall” for “Administrator may”.

and struck out former par. (4) which read as follows:
“providing for a computer-based Federal Procurement
Data System which shall be located in the General
Services Administration (acting as executive agent for
the Administrator) and shall collect, develop, and dis-
seminate procurement data.”

Subsec. (d)(5). Pub. L. 100-679, § 3(a)(4), added par. (5)
and struck out former par. (5) which read as follows:
“providing for a Federal Acquisition Institute which
shall be located in the General Services Administration
(acting as executive agent for the Administrator) and shall—

“A foster and promote Government-wide career
management programs for a professional procure-
ment work force; and

“B promote and coordinate Government-wide re-
search and studies to improve the procurement proc-
es and the laws, policies, methods, regulations, pro-
cedures, and forms relating to procurement by the
executive agencies;”.

Subsec. (f). Pub. L. 100-679, § 3(a)(5), substituted “The
Administrator, with the concurrence of the Director of
the Office of Management and Budget, and with con-
sultation with the head of the agency or agencies con-
cerned,” for “The Director of the Office of Management
and Budget”.

1984—Subsec. (e). Pub. L. 98-569 substituted “sub-
section (d)” for “subsection (c)”.

1983—Pub. L. 98-191 amended section generally, revis-
ing and restating as subsecs. (a), (c), (d), (e), (g), (h),
and (i) provisions of former subsecs. (a), (f), (d), (e), (g),
(j), and (b), respectively, and by inserting provisions set
out in new subsecs. (b) and (j).

1979—Subsec. (a). Pub. L. 96-83, § 4(a), substituted pro-
visions setting forth the responsibilities of the Admin-
istrator with respect to the development and imple-
mentation of procurement policies, the coordination of
programs to improve the quality and performance of
personnel, and the development of a uniform procure-
ment system, for provisions setting forth responsibility
of the Administrator for overall direction of procure-
ment policy, and functions with respect to issuance of
policy, regulations, procedures, and forms.

Subsec. (c). Pub. L. 96-83, § 4(b), substituted provi-
sions relating to development and proposal of a central
management system, for provisions setting forth li-
mitation of authority to procurement from appropri-
ted funds and provisions relating to a study and report of
procurement from nonappropriated funds.

Subsec. (d). Pub. L. 96-83, § 4(c), substituted provi-
sions setting forth the review, development, etc., func-
tions of the Administrator with respect to procurement
policies, regulations, procedures, and forms, procure-
ment data, procurement personnel, and procurement
contracts, for provisions setting forth the establish-
ment, monitoring, etc., functions of the Administrator.
with respect to uniform procurement regulations, procure-
ment policies, regulations, procedures, and forms, procure-
ment data, and procurement personnel.

(e) Pub. L. 96–83, §4(d), substituted provisions relating to consultation functions of the Admin-
istrator with respect to the development and implement-
tion of the uniform procurement system, for provi-
sions relating to the consultation functions of the Ad-
ministrator with respect to the development of poli-
cies, regulations, procedures and forms to be authorized
or prescribed by such Administrator.

Subsecs. (h) to (j). Pub. L. 96–83, §4(e), added subsecs. (h) to (j).

Effective Date of 1997 Amendment


Effective Date of 1996 Amendment


Effective Date of 1994 Amendment

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of this title.

Effective Date of 1979 Amendment


Enhanced Transparency on Interagency Contracting and Other Transactions


“(a) PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND SERVICES BY STATE AND LOCAL GOVERNMENTS.—The Administrator for Federal Procurement Policy shall establish a program under which States and units of local government may procure through contracts entered into by the Department of Defense or the Department of Homeland Security anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, deterring, or recovering from acts of terrorism.

“(b) AUTHORIZED.—Under the program, the Secretary of Defense and the Secretary of Homeland Security may, but shall not be required to, award contracts using the procedures established by the Administrator of General Services for the multiple awards schedule program of the General Services Administration.

“(c) DEFINITION.—In this section, the term ‘State or local government’ has the meaning provided in section 502(c)(3) of title 40, United States Code.”

Statutory and Regulatory Review


“(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act (Nov. 24, 2003), the Administrator for Federal Procurement Policy shall establish an advisory panel to review laws and regulations regarding the use of commercial practices, performance-based contracting, the performance of acquisition functions across agencies, the use of Governmentwide contracts.

“(b) MEMBERSHIP.—The panel shall be composed of at least nine individuals who are recognized experts in acquisition law and Government acquisition policy. In making appointments to the panel, the Administrator shall—

“(1) consult with the Secretary of Defense, the Administrator of General Services, the Committees on Armed Services and Government Reform [now Oversight and Government Reform] of the House of Representatives, and the Committees on Armed Services and Governmental Affairs of the Senate; and

“(2) ensure that the members of the panel reflect the diverse experiences in both the public and private sectors, including academia.

“(c) DUTIES.—The panel shall—

“(1) review all Federal procurement laws and regulations, and, to the extent practicable, Government-
wide acquisition policies, with a view toward ensuring effective and appropriate use of commercial prac-
tices and performance-based contracting; and

“(2) make any recommendations for the modification of such laws, regulations, or policies that are considered necessary as a result of such review.

“(A) to protect the best interests of the Federal Government;

“(B) to ensure the continuing financial and ethi-
cal integrity of acquisitions by the Federal Govern-
ment; and

“(C) to amend or eliminate any provisions in such laws, regulations, or policies that are unnecessary
for the effective, efficient, and fair award and admin-
istration of contracts for the acquisition by the Federal Government of goods and services.

Procurement Data System’s Federal Procurement Re-
port for fiscal year 2005, including at least one Cabinet-
level department that contracts out annually for

$5,000,000,000 and $9,000,000,000 in services, at least one Cabinet-
level department that contracts out annually for

$5,000,000,000 in services.”

Federal Support for Enhancement of State and Local Anti-Terrorism Response Capabilities


“(a) PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND SERVICES BY STATE AND LOCAL GOVERNMENTS.—The Administrator for Federal Procurement Policy shall establish a program under which States and units of local government may procure through contracts entered into by the Department of Defense or the Department of Homeland Security anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, deterring, or recovering from acts of terrorism.

“(b) AUTHORIZED.—Under the program, the Secretary of Defense and the Secretary of Homeland Security may, but shall not be required to, award contracts using the procedures established by the Administrator of General Services for the multiple awards schedule program of the General Services Administration.

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“(1) consult with the Secretary of Defense, the Administrator of General Services, the Committees on Armed Services and Government Reform [now Oversight and Government Reform] of the House of Representatives, and the Committees on Armed Services and Governmental Affairs of the Senate; and

“(2) ensure that the members of the panel reflect the diverse experiences in both the public and private sectors, including academia.

“(c) DUTIES.—The panel shall—

“(1) review all Federal procurement laws and regulations, and, to the extent practicable, Government-wide acquisition policies, with a view toward ensuring effective and appropriate use of commercial practices and performance-based contracting; and

“(2) make any recommendations for the modification of such laws, regulations, or policies that are considered necessary as a result of such review.

“(A) to protect the best interests of the Federal Government;

“(B) to ensure the continuing financial and ethical integrity of acquisitions by the Federal Government; and

“(C) to amend or eliminate any provisions in such laws, regulations, or policies that are unnecessary for the effective, efficient, and fair award and administration of contracts for the acquisition by the Federal Government of goods and services.
“(d) REPORT.—Not later than 18 months after the establishment of the panel, the panel shall submit to the Administrator and to the Committees on Armed Services and Governmental Reform (now Oversight and Government Reform) of the House of Representatives and the Committees on Armed Services and Governmental Affairs of the Senate a report containing a detailed statement of the findings, conclusions, and recommendations of the panel.”

CENTER OF EXCELLENCE IN SERVICE CONTRACTING
Pub. L. 106-136, div. A, title XIV, §1431(b), Nov. 24, 2003, 117 Stat. 1671, provided that: “Not later than 180 days after the date of the enactment of this Act [Nov. 24, 2003], the Administrator for Federal Procurement Policy shall establish a center of excellence in contracting for services. The center of excellence shall assist the acquisition community by identifying, and serving as a clearinghouse for, best practices in contracting for services in the public and private sectors.”

REPORTING OF BUNDLED CONTRACT OPPORTUNITIES
Section 414 of title IV of Pub. L. 106-135 provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 632(o)) shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed $5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

“(b) DEFINITIONS.—In this section, the term ‘bundling of contract requirements’ has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this subtitle).”

CONGRESSIONAL FINDINGS REGARDING CONSIDERATION OF PAST CONTRACT PERFORMANCE
Section 1091(b)(1) of Pub. L. 103-355 provided that: “Congress makes the following findings:

“(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

“(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.”

RESULTS-ORIENTED ACQUISITION PROCESS
Section 6002 of Pub. L. 106-355 provided that:

“(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop results-oriented acquisition process guidelines for implementation by agencies in acquisitions of property and services by the Federal agencies. The process guidelines shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of items other than commercial items by a Federal agency satisfies the needs for which the items are being acquired.

“(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process guidelines developed pursuant to subsection (a) may not be applied to the Department of Defense.”

DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS
Pub. L. 103-355, title VII, §7107, Oct. 13, 1994, 108 Stat. 3376, directed the Administrator for Federal Procurement Policy to conduct a comprehensive review of Federal laws in effect on Nov. 1, 1994, to identify and catalogue provisions defining small business concerns owned and controlled by socially and economically disadvantaged individuals, minority-owned small business concerns, and small business concerns owned and controlled by women, for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in contracts awarded directly by the Federal Government or subcontracts awarded under such contracts, or contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance. The Administrator was to develop uniform definitions and agency certification standards and procedures for qualification as a small business concern, and submit to Congress, not later than May 1, 1996, a report on the results of the review, the actions taken, and the Administrator’s recommendations.

DATA COLLECTION THROUGH FEDERAL PROCUREMENT DATA SYSTEM
Section 10004 of Pub. L. 103-355 provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 605(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data identifying the following matters:


“(2) Awards to business concerns owned and controlled by women.

“(3) Number of offers received in response to a solicitation.

“(4) Task order contracts.

“(5) Contracts for the acquisition of commercial items.

“(b) DEFINITION.—In this section, the term ‘simplified acquisition threshold’ has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 603(11)).”

PROFIT METHODOLOGY STUDY
Section 7 of Pub. L. 106-679 provided that:

“(a) IN GENERAL.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on the average price competition on an established catalog or market prices of commercial items sold in substantial quantities to the general public.

“(b) CONTRACTORS’ FINANCIAL DATA.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors’ financial data.”

§ 405a. Uniform Federal procurement regulations and procedures
The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93–400 [41 U.S.C. 401 et seq.] and subject to the procedures set forth in such Public Law, to promulgate a single, simplified, uniform Federal procurement regulation and to establish procedures for insuring compliance with such provisions by all Federal agencies. In formulating such regulations and procedures the Administrator of the Office of Federal Procurement Policy shall, in consultation with the Small Business Administration, conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and incorporate into revised procurement regulations simplified bidding, contract performance, and