

Public Law 96-83
96th Congress

An Act

Oct. 10, 1979

[S. 756]

Office of Federal
Procurement
Policy Act
Amendments of
1979.

41 USC 401 note.

41 USC 401 note.

To amend the Office of Federal Procurement Policy Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE

SECTION 1. (a) This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1979".

(b) As used in this Act, the term "the Act" means the Office of Federal Procurement Policy Act.

DECLARATION OF POLICY

SEC. 2. Strike Section 2 of the Act (41 U.S.C. 401) and insert in lieu thereof the following:

"DECLARATION OF POLICY

"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) promoting the use of full and open competition in the procurement of products and services;

"(2) 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;

"(3) improving the quality, efficiency, economy, and performance of Government procurement organizations and personnel, and eliminating fraud and waste in the procurement process;

"(4) avoiding or eliminating unnecessary overlapping or duplication of procurement and related activities;

"(5) avoiding or eliminating unnecessary or redundant requirements placed on contractor and Federal procurement officials;

"(6) identifying gaps, omissions, or inconsistencies in procurement laws, regulations, and directives and in other laws, regulations, and directives, relating to or affecting procurement;

"(7) achieving greater uniformity and simplicity, whenever appropriate, in procurement procedures;

"(8) otherwise promoting economy, efficiency, and effectiveness in Government procurement organizations and operation;

"(9) coordinating procurement policies and programs of the several departments and agencies;

"(10) minimizing possible disruptive effects of Government procurement on particular industries, areas, or occupations;

"(11) improving understanding of Government procurement laws and policies within the Government and by organizations and individuals doing business with the Government; and

"(12) promoting fair dealing and equitable relationships among the parties in Government contracting."

DEFINITION

SEC. 3. Section 4 of the Act (41 U.S.C. 404) is amended by inserting "(a)" immediately after "SEC. 4." and by inserting at the end of such section the following new subsection: 41 USC 403.

"(b) As used in this Act, the term 'procurement' includes all stages of the acquisition process, beginning with the process for determining a need for property and services through to the Federal Government's disposition of such property and services."

AUTHORITY AND FUNCTIONS

SEC. 4. (a) Section 6(a) of the Act (41 U.S.C. 405(a)) is amended to read as follows:

"SEC. 6. (a) The Administrator shall provide overall leadership in the development and implementation of procurement policies and the coordination of programs to improve the quality and performance of procurement personnel. The Administrator shall develop for submission under section 8(a) a uniform procurement system which shall, to the extent he considers appropriate and with due regard to the program activities of the executive agencies, include uniform policies, regulations, procedures, and forms to be followed by executive agencies—

Uniform
procurement
system.
41 USC 407.

"(1) in the procurement of—

"(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 (1)(A), (1)(B), and (1)(C) of this subsection, to the extent required for performance of Federal grant or assistance programs."

(b) Section 6(c) of the Act (41 U.S.C. 405(c)) is amended to read as follows:

"(c) The Administrator shall develop and propose a central management system consisting of the Office of Management and Budget, the General Services Administration, and procurement offices in executive agencies to implement and enforce the uniform procurement system described in subsection (a) of this section."

Central
management
system.

(c) Section 6(d) of the Act (41 U.S.C. 405(d)) is amended to read as follows:

"(d) The functions of the Administrator shall include—

"(1) reviewing the recommendations of the Commission on Government Procurement to determine those recommendations that should be completed, amended, or rejected, and to propose the priority and schedules for completing the remaining recommendations;

"(2) developing a system of simplified and uniform procurement policies, regulations, procedures, and forms;

"(3) 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;

"(4) promoting and conducting research in procurement policies, regulations, procedures, and forms, through the Federal Acquisition Institute, which shall be located within the Office and directed by the Administrator;

"(5) establish, through the Federal Procurement Data Center, which shall be located in the General Services Administration

and acting as executive agent for the Administrator, a computer-based information 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, through the Federal Acquisition Institute, programs of the Office of Personnel Management and executive agencies for recruitment, training, career development, and performance evaluation of procurement personnel;

41 USC 407.

“(7) developing, for inclusion in the uniform procurement system to be submitted under section 8(a), standard contracts and contract language in order to reduce the Government’s cost of procuring goods and services as well as the private sector’s cost of doing business with the Government; and

“(8) providing leadership and coordination in the formulation of executive branch positions on legislation relating to procurement.”

(d) Section 6(e) of the Act (41 U.S.C. 405(e)) is amended to read as follows:

Consultation
with executive
agencies.

“(e) In the development and implementation of the uniform procurement system 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.”

(e) Section 6 of the Act (41 U.S.C. 405) is further amended by inserting at the end thereof the following new subsections:

“(h)(1) Until the effective date of legislation implementing a uniform procurement system, the Administrator may, with the concurrence of the Director of the Office of Management and Budget, issue policy directives, in accordance with existing law, for the purpose of promoting the development and implementation of the uniform procurement system or for the purpose of promoting the policies set forth in paragraphs (1) through (8) of section 2 of this Act. Such policy directives shall be followed by executive agencies.

“(2) Any policy directives issued pursuant to paragraph (1) may require executive agencies to issue implementing regulations which shall be in accord with the criteria and standards set forth in such policy directives.

Regulations,
denial or
rescission of
promulgation.

“(i) Until the effective date of legislation implementing a uniform procurement system, the Director of the Office of Management and Budget shall deny or rescind the promulgation of any final rule or regulation of any executive agency relating to procurement if the Director determines that such rule or regulation is inconsistent with the policies set forth in paragraphs (1) through (8) of section 2 of this Act or is inconsistent with any policy directives issued pursuant to subsection (h).

“(j) Nothing in this Act shall be construed—

40 USC 471 note.

“(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and services or of real property; or

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

RESPONSIVENESS TO CONGRESS

SEC. 5. (a) Section 8(a) of the Act (41 U.S.C. 407(a)) is amended to read as follows:

"SEC. 8. (a)(1) 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 House of Representatives and the Senate annually and at such other times as may be necessary for this purpose.

Report to Congress.

"(2) At the earliest practicable date, but in no event later than one year after the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979, the Administrator shall transmit to the House of Representatives and the Senate his proposal for a uniform procurement system. Such proposal shall include a full description of the proposed system, projected costs and benefits of the system as proposed, and short- and long-term plans for implementation of the system, including schedules for implementation. At the same time, the Administrator shall transmit a report on the recommendations of the Commission on Government Procurement specified in section 6(d)(1) of this Act.

Uniform procurement system proposal, transmittal to Congress.

"(3) At the earliest practicable date, but in no event later than one year after presentation of the proposal described in paragraph (2) of this subsection, the Administrator shall propose to the House of Representatives and the Senate recommended changes in legislation relating to procurement by executive agencies. If the Administrator deems it necessary, these recommendations shall include a proposal for a consolidated statutory base for procurement by executive agencies.

Executive agencies' procurement proposal, transmittal to Congress.

"(4) At the earliest practicable date, but in no event later than the submission of the legislative recommendations described in paragraph (3) of this subsection, the Administrator shall present a proposal for a management system described in section 6(c) to implement and enforce the uniform procurement system."

Management system proposal.

(b) Section 8 of the Act (41 U.S.C. 407) is further amended—

(1) by striking out "any major policy or regulation prescribed under section 6(a)" in subsection (b) and inserting in lieu thereof "any policy prescribed under section 6(h)";

41 USC 405.

(2) by striking "or regulation" each place it appears in such subsection; and

(3) by striking out "any major policy or regulation" in subsection (c) and inserting in lieu thereof "any policy".

EFFECT ON EXISTING REGULATIONS

SEC. 6. Section 10 of the Act (41 U.S.C. 409) is amended to read as follows:

"EFFECT ON EXISTING REGULATIONS

"SEC. 10. Procurement policies, regulations, procedures, or forms in effect as of the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979 shall continue in effect, as modified from time to time by the issuing offices on their own initiative or in response to policy directives issued under section 6(h) until repealed, amended, or superseded pursuant to the adoption of the uniform procurement system described in section 6 of this Act."

41 USC 405.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Section 11 of the Act (41 U.S.C. 410) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the provisions of this Act, and for no other purpose, \$4,000,000 for the fiscal year ending September 30, 1980, and for each of the three succeeding fiscal years; and one-third of the funds appropriated for any such fiscal year shall be made available to the Federal Acquisition Institute for the performance of its functions under this Act."; and

(2) by striking out "Government Operations" in the second sentence and inserting in lieu thereof "Governmental Affairs".

DELEGATION

SEC. 8. Section 12(a) of the Act (41 U.S.C. 411(a)) is amended by striking out "direction of Federal procurement policy and to prescribe policies and regulations to carry out that policy" and by inserting in lieu thereof "leadership in the development of Federal procurement policy".

ACCESS TO INFORMATION

SEC. 9. Section 14(b) of the Act (41 U.S.C. 412(b)) is amended by striking out "establishing" and inserting in lieu thereof "developing".

CONFORMING AMENDMENTS

SEC. 10. (a) Sections 201(a)(1), 201(c), and 206(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(1), 481(c), 487(a)(4)) are each amended by striking out "subject to regulations" and inserting in lieu thereof "subject to policy directives".

(b) Section 602(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(c)) is amended by striking out "except as otherwise provided by the Office of Federal Procurement Policy Act, and".

41 USC 401 note.

EFFECT ON OTHER LAW

41 USC 405a
note.

92 Stat. 1771.

SEC. 11. The provisions of the Act as amended by this Act shall supersede the provisions of section 222 of the Act of October 24, 1978, entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958" (41 U.S.C. 405a) to the extent they are inconsistent therewith.

EFFECTIVE DATE

41 USC 401 note.

SEC. 12. Except to the extent otherwise provided therein, the amendments made by this Act shall take effect on October 1, 1979.

Approved October 10, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-178 accompanying H.R. 3763 (Comm. on Government Operations).

SENATE REPORT No. 96-144 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 125 (1979):

May 21, considered and passed Senate.

Sept. 10, H.R. 3763 considered and passed House; passage vacated and S. 756, amended, passed in lieu.

Sept. 27, Senate concurred in House amendments with amendments.

Sept. 28, House agreed to Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 15, No. 41:

Oct. 10, Presidential statement.