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United States Senate

Ribicoff

RICHARD A. WEGMAN
CHIEF COUNSEL AND STAFF DIRECTOR

COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, D.C. 20510

July 2, 1980

Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Attn: Congressional Liaison

Re: S. 2880

Enclosed is a copy of a bill which has been referred to the Committee on Governmental Affairs.

The Committee would appreciate your views regarding the provisions of this bill and any recommendations which you may have concerning possible Committee action.

Please transmit your reply in quadruplicate. All correspondence should be addressed to the Committee on Governmental Affairs, 3308 Dirksen Senate Office Building, Washington, D.C. 20510, Attn: Janiffer Baumann.

Your prompt attention would be appreciated. Thank you for your cooperation.

Sincerely,

Abe Ribicoff
Abe Ribicoff

Enclosure

P.S. The Subcommittee on Civil Service and General Services will hold a hearing on this legislation on July 22. We would appreciate receiving your comments on or before July 31, 1980.

7/3 -- To OGC for signature of OGC or Chairman as Appropriate. Date Due: July 22.
Distribution: OCA to Acknowledge. 80-1358.

8-009100 09,3

96TH CONGRESS
2D SESSION

S. 2880

To amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26 (legislative day, JUNE 12), 1980

Mr. PRYOR (for himself, Mr. STEVENS, Mr. SASSER, Mr. MAGNUSON, Mr. METZENBAUM, Mr. PERCY, Mr. DURKIN, Mr. EAGLETON, Mr. BAUCUS, Mr. STEWART, Mr. RIEGLE, Mr. LEAHY, and Mr. BURDICK) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Consultant Reform Act of
4 1980".

STATEMENT OF POLICY

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SEC. 2. It is the policy of the United States that—

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(1) governmental policymaking and decisionmaking activities which are inherently related to the public interest must be performed by accountable Federal officials;

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(2) the performance of the activities described in paragraph (1) by private concerns could compromise the integrity of the governmental process;

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(3) the procurement of goods and services by contract should occur only when compliance with applicable laws and regulations is ensured;

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(4) goods and services that are only available in the private sector should be obtained from the private sector;

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(5) the competitive pressures of the free marketplace increase the ability of private enterprise to provide goods and services at competitive prices;

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(6) maximum competition in the Federal procurement process supports the basis of the free enterprise system while guaranteeing maximum return on Federal procurement expenditures;

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(7) the costs of performing governmental activities are borne by the taxpayers regardless of whether the activities are performed in the private or public sector;

1 (8) the American people deserve and expect that
2 governmental activities should be accomplished through
3 the most economical means available while recognizing
4 the inherently governmental nature of certain activi-
5 ties; and

6 (9) the integrity of the governmental process, es-
7 pecially where contractors are used to perform govern-
8 mental functions, requires full public disclosure of the
9 use and role of the contractors.

10 STATEMENT OF FINDINGS

11 SEC. 3. The Congress finds and declares that—

12 (1) laws relating to procurement activities, regula-
13 tions and management guidelines have not been con-
14 sistently complied with by Federal procurement offi-
15 cials in awarding contracts for the procurement of
16 goods and services;

17 (2) procurement practices presently do not provide
18 for (A) the maximization of competition, (B) the pre-
19 vention of duplication or overlap, (C) adequate consid-
20 eration of conflicts of interest, or (D) the maintenance
21 of a complete and fully documented contract record;

22 (3) information on the Federal Government's use
23 of contractors is not maintained in a manner which is
24 visible to the Congress, the executive branch, and the
25 public;

1 (4) no governmental authority has exercised the
2 responsibility for and oversight of the actions of the
3 various Federal agencies to achieve the maximum
4 benefit possible for the Government in its procurement
5 activities; and

6 (5) legislation and legislative oversight is neces-
7 sary to achieve the consistency and uniformity
8 needed in the procurement activities of the Federal
9 Government.

10 TITLE I—APPOINTMENTS

11 REVISION OF SECTION 3109 OF TITLE 5

12 SEC. 101. (a) Section 3109 of title 5, United States
13 Code, is amended to read as follows:

14 “§3109. Employment of individual experts and consul-
15 tants

16 “(a) For the purpose of this title—

17 “(1) ‘agency’ has the meaning given it by section
18 5721(1) of this title;

19 “(2) ‘appointed consultant’ means an individual—

20 “(A) who has a high degree of knowledge,
21 skill, or experience in a particular field, and

22 “(B) whose primary function is to serve an
23 agency in an advisory capacity in that field,
24 rather than to perform or supervise the operating
25 function of the agency; and

1 “(3) ‘appointed expert’ means an individual—

2 “(A) who has excellent qualifications and a
3 high degree of attainment in a professional, scien-
4 tific, technical, or other field,

5 “(B) who, because of such qualifications and
6 attainment, is usually regarded as an authority, or
7 as a practitioner of unusual competence and skill,
8 by other individuals engaged in that field, and

9 “(C) whose primary function is to perform or
10 supervise an operating function rather than to
11 provide advisory services.

12 “(b) The head of an agency may appoint and fix the pay
13 of appointed experts or consultants for temporary or intermit-
14 tent services (not in excess of one year), without regard to—

15 “(1) the provisions of this title governing appoint-
16 ment in the competitive service; and

17 “(2) chapter 51, subchapter III of chapter 53,
18 and chapter 54 of this title (relating to position classifi-
19 cation and pay rates),

20 except that the rate of pay for any individual so appointed
21 may not exceed the rate of basic pay payable for GS-18
22 unless otherwise specifically authorized by statute.

23 “(c) Positions in the Senior Executive Service may not
24 be filled under the authority of subsection (b) of this section.

1 “(d) The Office of Personnel Management shall pre-
2 scribe regulations governing the employment of appointed ex-
3 perts and consultants and the reporting requirements of this
4 section, and may take such action as it considers appropriate
5 to assure compliance with this section and those regulations,
6 including audit of individual cases, and, if necessary, suspen-
7 sion of appointing authority under this section. Agencies shall
8 comply with the requirements of the Office, including taking
9 any corrective action it may direct.

10 “(e) Each agency shall within a reasonable period after
11 the close of each calendar quarter report to the Office of Per-
12 sonnel Management with respect to—

13 “(1) the number of days each individual appointed
14 under subsection (b) of this section was employed
15 during the quarter, and

16 “(2) the total pay paid to each individual for work
17 performed under this section during the quarter.

18 “(f) In administering any personnel ceiling applicable to
19 an agency (or unit therein) during any fiscal year, an
20 appointed expert or consultant employed by that agency or
21 unit under this section shall be counted as a fraction which is
22 determined by dividing two thousand and eighty hours into
23 the total number of hours the appointed expert or consultant
24 worked for that agency or unit during that year.

1 “(g)(1) The head of each agency shall establish proce-
2 dures for the review and approval of—

3 “(A) the justification of the need for the services
4 of an appointed expert or consultant under this section;
5 and

6 “(B) the appointment of each appointed expert or
7 consultant.

8 “(2) In any case in which need for the services of an
9 appointed expert or consultant is found to be justified, under
10 this section, no action may be initiated to obtain those serv-
11 ices by contract unless it has been certified that all reason-
12 able steps have been taken to obtain those services by
13 appointment.”.

14 (b) The analysis of chapter 31 of title 5, United States
15 Code, is amended by striking out the item relating to section
16 3109 and inserting in lieu thereof the following new item:

“3109. Employment of individual experts and consultants.”.

17 EFFECT ON OTHER LAW

18 SEC. 102. Section 3109 of title 5, United States Code,
19 as amended by the first section of this Act, shall supersede
20 any statute enacted before the date of the enactment of this
21 Act to the extent such statute grants authority to an agency
22 to appoint an expert or consultant.

1 EFFECTIVE DATE

2 SEC. 103. The amendments made by this title shall take
3 effect one hundred and eighty days after the date of enact-
4 ment of this Act.

5 TITLE II—CONTRACTS

6 DEFINITIONS

7 SEC. 201. For purposes of th's title—

8 (1) the term "agency" has the meaning given it
9 by section 552(e) of title 5, United States Code;

10 (2) the term "contract" means a written agree-
11 ment, including amendments and modifications thereto,
12 between the Government and a contractor for the pro-
13 curement of goods and services;

14 (3) the term "contractor" means any person, firm,
15 unincorporated association, joint venture, partnership,
16 corporation or affiliates thereof, including consultants
17 and organizations thereof, which is a party to a con-
18 tract with the Government; and

19 (4) the term "report" means a study, plan, evalu-
20 ation, analysis, manual, oral or written presentation, or
21 other document, including drafts thereof, which is pre-
22 pared by a contractor pursuant to a contract with an
23 agency, and which is submitted—

24 (A) to such agency, or

1 (B) on behalf of such agency to any other
2 authority of the Government,
3 but does not include billing documents, invoices, or
4 other routine business transmittals.

5 PUBLICATION OF CONTRACTS

6 SEC. 202. (a) Notwithstanding any other provision of
7 law, as soon as practicable after an agency determines that it
8 may need to enter into a contract in an amount in excess of
9 \$10,000, the agency shall transmit to the Secretary of Com-
10 merce a written notice describing such contract. The Secre-
11 tary of Commerce shall publish each notice received pursuant
12 to this subsection in the daily publication "United States De-
13 partment of Commerce Synopsis of the United States Gov-
14 ernment Proposed Procurement, Sales, and Contract
15 Awards". An agency is not required to transmit to the Secre-
16 tary of Commerce a notice with respect to any contract—

17 (1) for which a national security classification has
18 been lawfully made relative to the contract or the
19 terms therein; or

20 (2) which is being awarded due to such an
21 unusual and compelling emergency that the Govern-
22 ment would be seriously injured if notice were required
23 to be published.

24 (b) Whenever an agency modifies a contract and thereby
25 increases the contract award by \$50,000 or more, the agency

1 shall transmit to the Secretary of Commerce a written notice
2 describing such modification. The Secretary of Commerce
3 shall publish each notice received pursuant to this subsection
4 in the same manner as provided for in subsection (a) of this
5 section but subject only to the exception provided for in
6 subsection (a)(1).

7 (c) Whenever an agency is required to transmit a notice
8 described in subsection (b) of this section, the agency shall
9 also be required to transmit to the Committee on Appropri-
10 ations of each House of Congress a written notice which
11 shall describe—

- 12 (1) the original contract;
13 (2) the modification being made; and
14 (3) a justification for the modification.

15 PUBLIC AVAILABILITY

16 SEC. 203. (a)(1) Every agency shall maintain during
17 each month a list of contracts which were entered into within
18 the preceding 24 months or for which contractors have not
19 then completed performance. Such list shall include—

- 20 (A) the contract identification number assigned by
21 the agency;
22 (B) the contractor's name;
23 (C) the date of award and the initial and current
24 estimated completion date;

1 (D) the initial and current amount of the contract
2 award;

3 (E) a brief description of the work to be per-
4 formed; and

5 (F) the names of the Government employee who
6 authorized the award of the contract and the employee
7 who is responsible for the program administration of
8 the contract.

9 (2) The list under paragraph (1) shall be available to the
10 public for inspection and copies shall be available but the
11 agency may charge for duplication costs therefor.

12 (b) Except where for national security reasons the terms
13 of a contract are lawfully determined to be of a classified
14 nature, all contracts shall be considered public information
15 and shall be available to the public upon request notwith-
16 standing any other provision of law.

17 (c) Notwithstanding any other provision of law, the fol-
18 lowing information shall be available to the public upon
19 request:

20 (1) the name and qualifications of any personnel
21 designated in a contract;

22 (2) the contractor's experience which is contained
23 in a proposal or other related document and which is
24 offered as a demonstration of a qualification for per-
25 forming a contract; and

1 (3) the documents which support an award made
2 on a basis other than formally advertised competition.

3 (d) The information which subsections (a), (b), and (c)
4 make available to the public shall not be construed to limit
5 the availability of other contract related information.

6 DISCLOSURE OF INFORMATION CONCERNING THE USE OF
7 CONTRACTORS

8 SEC. 204. Each report prepared by a contractor, and
9 each report prepared by an agency which is substantially de-
10 rived from or substantially includes any such report, shall
11 include—

12 (1) the name and business address of the contrac-
13 tor who prepared or contributed to the report;

14 (2) the total amount to be paid by such agency
15 under such contract;

16 (3) the type of procurement process used in the
17 award of such contract;

18 (4) the name of the office or employee of the
19 agency who authorized such contract;

20 (5) a brief description of the work performed
21 under the contract; and

22 (6) in any case in which a contractor used a sub-
23 contractor to carry out any portion of the contract, the
24 name and business address of the subcontractor and
25 the amount paid to the subcontractor.

1 ORGANIZATIONAL CONFLICT OF INTERES:

2 SEC. 205. (a) For purposes of this section—

3 (1) the term “organizational conflict of interest”
4 means any relationship or situation in which an offeror
5 or contractor has past, present, or currently planned
6 interests that either directly, or indirectly through a
7 client relationship, relate to work to be performed
8 under a contract and which—

9 (A) may diminish the capacity of the offeror
10 or contractor to give impartial, technically sound,
11 and objective assistance and advice; or

12 (B) may result in an unfair competitive ad-
13 vantage to the offeror or contractor;

14 except that such term does not include the normal flow
15 of benefits from the performance of the contract; and

16 (2) the terms “offeror” and “contractor”
17 include—

18 (A) a chief executive or director of such of-
19 feror or contractor, to the extent that such execu-
20 tive or director is or becomes involved in the per-
21 formance of a contract; and

22 (B) consultants or subcontractors proposed to
23 be used by such offeror or contractor in the per-
24 formance of the contract in any case in which
25 such consultant or subcontractor may be perform-

1 ing services similar to the services provided by
2 the offeror or contractor.

3 (b)(1) Whenever an offeror submits a proposal for a con-
4 tract, the offeror shall include with such proposal—

5 (A) a statement which discloses all relevant facts
6 relating to an existing or potential organizational con-
7 flict of interest concerning the contract; or

8 (B) a statement certifying, to the best knowledge
9 and belief of such offeror, that no relevant facts exist
10 relating to such an existing or potential organizational
11 conflict of interest.

12 (2) Any consultant or subcontractor which any such of-
13 feror proposes to use in the performance of the contract shall
14 also submit a statement containing the information required
15 by paragraph (1) to the agency receiving the proposal.

16 (3) In any case in which a contract has been entered
17 into and a modification of the contract becomes necessary, a
18 contractor and any consultant or subcontractor used by the
19 offeror in the performance of the contract shall submit to the
20 agency—

21 (A) any statement required by paragraph (1) with
22 respect to such modification; or

23 (B) a revision of any statement submitted with re-
24 spect to the proposal which reflects such modification.

1 (4) Each contractor, consultant, and subcontractor shall
2 submit, on a timely basis, revisions of any statement made
3 under this subsection to reflect any changes in circumstances
4 arising after the statement was made.

5 (c) An agency shall evaluate each statement and certifi-
6 cation received pursuant to subsection (b) to determine
7 whether an organizational conflict of interest exists with re-
8 spect to a contract. In making such evaluation, the agency
9 shall—

10 (1) examine whether—

11 (A) the offeror, contractor, consultant, or
12 subcontractor has conflicting roles or interests
13 which might bias the judgment of the offeror, con-
14 tractor, consultant, or subcontractor concerning
15 the work to be performed pursuant to the con-
16 tract; or

17 (B) the offeror or contractor will have an
18 unfair advantage based on the performance of the
19 contract; and

20 (2) pay particular attention to proposed contrac-
21 tual requirements which call for the provision of
22 advice, evaluation, or other actions which will have a
23 direct effect on future decisions of the agency relating
24 to contracts, procurement, research and development
25 programs, production, or regulatory activities.

1 (d) Whenever, prior to the award of a contract, an
2 agency determines that an organizational conflict of interest
3 exists with respect to the contract—

4 (1) the agency shall disqualify the offeror from eli-
5 gibility for award of the contract or, in the case of an
6 organizational conflict of interest involving a consultant
7 or subcontractor proposed to be used by the offeror in
8 the performance of the contract, shall prohibit the of-
9 feror from using the services of such consultant or sub-
10 contractor;

11 (2) the agency shall include in the contract award-
12 ed to the offeror such conditions as the agency finds
13 necessary to prevent an organizational conflict of inter-
14 est involving such offeror or any consultant or subcon-
15 tractor; or

16 (3) in any case in which the agency determines
17 that—

18 (A) the facts and circumstances surrounding
19 the contract necessitate immediate action; and

20 (B) the agency is unable to obtain the serv-
21 ices to be performed pursuant to the contract from
22 any other person other than the offeror, consult-
23 ant, or subcontractor involved in the organization-
24 al conflict of interest,

1 the agency may award the contract to the offeror if the
2 agency includes in the records maintained by the
3 agency on the contract, makes available to the public,
4 and transmits to the appropriate authorizing commit-
5 tees of each House of Congress a complete statement
6 of the relevant facts disclosed by the offeror pursuant
7 to subsection (b), consultant, or subcontractor, or oth-
8 erwise known or made available to the agency.

9 (e)(1) Whenever an agency, after entering into a con-
10 tract, determines that an organizational conflict of interest
11 exists with respect to the contract, the agency shall—

12 (A) terminate the contract; or

13 (B) in any case in which termination is not in the
14 best interest of the Government, modify the contract to
15 the extent necessary to prevent or mitigate to the
16 greatest extent possible the conflict and include in the
17 records maintained by the agency on the contract,
18 make available to the public, and transmit to the ap-
19 propriate authorizing committee of each House of Con-
20 gress a complete statement of the relevant facts deter-
21 mined to exist regarding the offeror, consultant, or sub-
22 contractor.

23 (2)(A) Except as provided in subparagraph (B) a con-
24 tractor or a consultant or subcontractor to any contract shall
25 have no cause of action against the United States for dam-

1 ages as a result of an action of an agency under paragraph
2 (1) (other than a cause of action for damages specified pursu-
3 ant to a convenience clause in the contract), but a contractor
4 may have a cause of action against the United States for
5 compensation for work performed prior to such agency
6 action.

7 (B) A contractor shall have no cause of action for com-
8 pensation for work performed prior to an agency action under
9 paragraph (1) if it is determined that the contractor's, consul-
10 tant's, or subcontractor's failure to completely disclose the
11 relevant facts under subsection (1) precluded a determination
12 of the existence of an organizational conflict of interest prior
13 to the award of the contract.

14 BUDGET IDENTIFICATION AND JUSTIFICATION

15 SEC. 206. (a) The head of each agency shall include
16 with the request for regular appropriations for each fiscal
17 year submitted to the Director of the Office of Management
18 and Budget pursuant to section 215 of the Budget and Ac-
19 counting Act (31 U.S.C. 23) an itemized statement of the
20 amounts requested by the agency for the procurement of
21 goods and services in such fiscal year. The statement shall
22 identify such amounts according to the same subfunctional
23 categories to be used by the President in the submission of
24 the Budget for such fiscal year pursuant to section 201(a) of

1 such Act (31 U.S.C. 11), and, within each such category,
2 shall identify such amounts according to—

3 (1) amounts requested by the agency for the pro-
4 curement of goods;

5 (2) amounts requested by the agency for the pro-
6 curement of services, including amounts (specified sep-
7 arately) requested for contracts for the preparation of
8 reports; and

9 (3) such other classifications as the head of the
10 agency determines appropriate.

11 (b) The Budget transmitted by the President to the Con-
12 gress for each fiscal year under section 201(a) of the Budget
13 and Accounting Act, 1921 (31 U.S.C. 11) shall set forth sep-
14 arately, within each subfunctional category used in such
15 budget, requests for new budget authority for, and estimates
16 of outlays by, each agency for (1) procurement of goods and
17 (2) procurement of services, including requests and estimates
18 (specified separately) for contracts for the preparation of
19 reports.

20 (c)(1) By April 1 of the fiscal year preceding the fiscal
21 year for which the Budget is submitted pursuant to section
22 201(a) of such Act, the head of each agency shall prepare
23 and transmit to the Committees on Appropriations of the
24 Senate and the House of Representatives an analysis of each
25 request for new budget authority and of the estimates of out-

1 lays included in such Budget pursuant to subsection (b) and a
2 statement justifying the need for each such request and
3 estimate.

4 (2) Within sixty days after the President transmits to
5 the Congress a revision of any request or estimate included in
6 the Budget for any fiscal year pursuant to subsection (b), the
7 head of the agency affected by such revision shall prepare
8 and transmit to the Congress a modification of the analysis
9 and statement required by paragraph (1) which reflects the
10 revision made by the President.

11 CONTRACT EVALUATION

12 SEC. 207. (a) Within one hundred and twenty days after
13 performance has been completed of any contract in a total
14 amount in excess of \$50,000 which provides for the prepara-
15 tion or submission of a report, the agency shall prepare a
16 written evaluation of such contract. The evaluation shall
17 include—

18 (1) a description of each report submitted by the
19 contractor, including a description of the recommenda-
20 tions, conclusions, or findings therein;

21 (2) a description of the actions which the agency
22 took in response to the report, or, if no such action
23 was taken, the reasons therefor; and

24 (3) a summary of the performance of the contrac-
25 tor under the contract, including—

1 (A) the performance of the contractor accord-
2 ing to the terms and specifications included in the
3 contract; and

4 (B) any deviation by the contractor from the
5 provisions of the contract originally awarded with
6 respect to cost and time for completion of the con-
7 tract and reasons for any such deviation.

8 (b) The agency shall include the evaluation required by
9 subsection (a) in the records maintained by the agency re-
10 garding the contract, and shall maintain a copy of the evalua-
11 tion at a central location within the agency.

12 PERFORMANCE APPRAISAL

13 SEC. 208. (a) Section 4313 of title 5, United States
14 Code, is amended by redesignating paragraphs (4) and (5) as
15 paragraphs (5) and (6), respectively, and by inserting after
16 paragraph (3) the following new paragraph:

17 "(4) compliance with rules, regulations, and pro-
18 cedures applicable to the contracting out of agency
19 functions, and furtherance of the policy set forth in sec-
20 tion 2 of the Consultant Reform Act of 1980;"

21 (b) Section 5402(b)(2)(B) of title 5, United States Code,
22 is amended by striking out "and" at the end of clause (iii), by
23 redesignating clause (iv) as clause (v), and by inserting after
24 clause (iii) the following new clause:

1 “(iv) compliance with rules, regulations, and pro-
2 cedures applicable to the contracting out of agency
3 functions, and furtherance of the policy set forth in sec-
4 tion 2 of the Consultant Reform Act of 1980; and”.

5 LIMITATION ON EXPENDITURES

6 SEC. 209. Section 3679(c) of the Revised Statutes, as
7 amended (31 U.S.C. 665), is amended by adding at the end
8 thereof the following new paragraph:

9 “(5)(A) In exercising apportionment authority under this
10 section for the fiscal year ending September 30, 1981, and
11 each of the following two fiscal years, the Director of the
12 Office of Management and Budget shall insure that no more
13 than 20 per centum of the total appropriations made availa-
14 ble for each agency for any such fiscal year for procurement
15 of goods and services may be obligated during the last two
16 calendar months of such fiscal year.

17 “(B) The Director may exclude from the requirements
18 of subparagraph (A) funds for procurement of goods and serv-
19 ices for any program or operation—

20 “(i) if and to the extent the Director determines
21 necessary to assure that a serious disruption in the ex-
22 ecution of that program or operation would occur in
23 the absence of such exclusion, and

24 “(ii) if the Director has submitted a written report
25 on such waiver to the Congress as early as practicable.

1 “(C) The Director shall keep the Congress fully in-
2 formed of actions taken to carry out subparagraph (A) for
3 each fiscal year involved, and shall promptly report in writing
4 any situation in which an agency’s obligations exceed the 20-
5 per centum requirement in subparagraph (A) other than pur-
6 suant to a waiver under subparagraph (B). Not later than
7 December 31, 1982, the Director shall submit a report to the
8 Congress on the results and impacts of this paragraph and
9 actions taken under this paragraph, including the effects upon
10 procurement and apportionment processes, together with the
11 Director’s recommendations concerning the continuation re-
12 quirements under this paragraph for any provisions of such
13 requirements. Concurrent with the submittal of the report to
14 the Congress under the preceding sentence, the Director
15 shall submit a copy of such report to the Comptroller Gen-
16 eral, who shall promptly review that report and submit to the
17 Congress an analysis of the report and any recommendations
18 which the Comptroller General considers appropriate.

19 “(D) Any reserves established or other actions taken in
20 connection with the apportionment process solely for the pur-
21 pose of satisfying the requirements of subparagraph (A) shall
22 be exempt from the last sentence of subsection (c)(2) of this
23 section and from section 1012(a) of the Impoundment Control
24 Act of 1974. Nothing in this paragraph shall be construed to
25 affect the authority of the Comptroller General under section

1 1015 of the Impediment Control Act of 1974 to report a
2 reserve or deferral to the Congress if the Comptroller Gen-
3 eral concludes that the reserve or deferral is not exempt
4 under this subparagraph.”.

5 PROCUREMENT DATA SYSTEM

6 SEC. 210. (a) Not later than September 30, 1981, the
7 Director of the Office of Management and Budget shall
8 promulgate and make effective a regulation establishing a
9 data system for the collection, processing, maintenance, and
10 dissemination of information regarding the procurement ac-
11 tivities of the Government and of each agency.

12 (b) Under such system—

13 (1) each contract covered by the system shall be
14 classified as to whether the contract is primarily for
15 the procurement of goods or of services, and if for
16 services, whether the services are primarily for the
17 preparation of a report; and

18 (2) all relevant information regarding each such
19 contract shall be included, particularly—

20 (A) an identification of the agency which
21 awarded the contract,

22 (B) the identification number or other desig-
23 nation of the contract,

24 (C) an identification of the parties to the con-
25 tract,

1 (D) the maximum amount payable by the
2 United States under the contract,

3 (E) the estimated completion date of the con-
4 tract,

5 (F) whether before the awarding of the con-
6 tract a comparison was made of (i) the costs to
7 the agency of directly performing the function
8 covered by the contract with (ii) the costs of con-
9 tracting with non-Federal entities for the perform-
10 ance of such function,

11 (G) the type of solicitation and procurement
12 process which was applied in awarding the con-
13 tract, and

14 (H) the date and a description of any modifi-
15 cation to the contract affecting the quality, quan-
16 tity, or extent of the goods or services provided,
17 the date of the performance of the contract, or the
18 amount payable by the United States under the
19 contract.

20 (c)(1) Consistent with otherwise applicable law, the Di-
21 rector shall make information within the system available, on
22 request, to the Congress, the various agencies, and the
23 public.

24 (2) The Director shall prepare and transmit to the Con-
25 gress quarterly and annual reports regarding the procure-

1 ment activities of the Government and of each agency from
2 the information maintained within the system.

3 (d) The regulations issued by the Director under subsec-
4 tion (a) shall require that each agency provide on a periodic
5 basis sufficient information to assure that the data in the
6 system, and in the reports under subsection (c)(2), are cur-
7 rent, accurate, and complete.

8 FREEDOM OF INFORMATION ACT AMENDMENT

9 SEC. 211. Section 552(a) of title 5, United States Code,
10 is amended by redesignating paragraphs (3), (4), (5), and (6)
11 as paragraphs (4), (5), (6), and (7), respectively, and by in-
12 serting after paragraph (2) the following new paragraph:

13 "(3) Each agency shall make information produced or
14 collected pursuant to a contract available to the public to the
15 same extent as if produced or collected by Government
16 officials."

17 EFFECT ON OTHER LAW

18 SEC. 212. The provisions of this title shall supersede
19 any statute enacted before the date of enactment of this Act
20 to the extent such statute is inconsistent with the provisions
21 of this title.

22 EFFECTIVE DATE

23 SEC. 213. The provisions of this title and the amend-
24 ments made by this title shall take effect one hundred and
25 eighty days after the date of enactment of this Act.