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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON
FEDERAL EXPENDITURES, RESEARCH,
AND RULES

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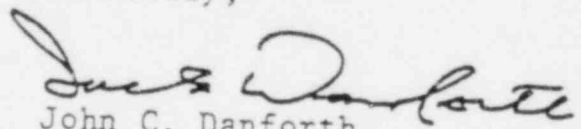
August 5, 1981

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

Dear Congressional Liaison:

On April 7, the Senate Committee on Governmental Affairs requested your comments on S. 719, the "Consultant Reform and Disclosure Act." On September 15, the Subcommittee on Federal Expenditures, Research, and Rules intends to hold a hearing concerning S. 719. Prior to that date, we would appreciate it if you would provide us with your written views concerning the legislation.

Sincerely,


John C. Danforth
Chairman

97TH CONGRESS
1ST SESSION

S. 719

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 consulting services, management and professional services, and special studies and analyses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, FEBRUARY 16), 1981

Mr. PRYOR (for himself, Mr. SASSER, Mr. EAGLETON, Mr. PERCY, Mr. LEVIN, Mr. COCHRAN, Mr. PROXMIRE, Mr. DECONCINI, Mr. WILLIAMS, Mr. BAUCUS, Mr. SIMPSON, Mr. BURDICK, and Mr. RIEGLE) 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 consulting services, management and professional services, and special studies and analyses, 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,*

1 That this Act may be cited as the "Consultant Reform and
2 Disclosure Act of 1981".

3 STATEMENT OF FINDINGS

4 SEC. 2. The Congress finds and declares that—

5 (1) Federal procurement officials have not consist-
6 ently complied with the laws relating to procurement
7 activities and regulations and management guidelines
8 in awarding contracts for the procurement of consulting
9 services, management and professional services, and
10 special studies and analyses;

11 (2) procurement practices, insofar as they relate
12 to the procurement of consulting services, management
13 and professional services, and special studies and anal-
14 yses, do not presently provide for (A) full and open
15 competition, (B) the prevention of duplication or over-
16 lap among contracts, (C) adequate consideration of con-
17 flicts of interest, or (D) the public disclosure of the use
18 and role of contractors who provide such services,
19 studies, and analyses;

20 (3) information regarding the Federal Govern-
21 ment's use of consulting services, management and
22 professional services, and special studies and analyses
23 is not maintained in a manner that results in helpful or
24 meaningful information being available to the Con-
25 gress, the executive branch, or the public;

1 (4) the competitive pressures of the free market-
2 place increase the likelihood that consulting services,
3 management and professional services, and special
4 studies and analyses will be provided at competitive
5 prices;

6 (5) full and open competition in the Federal pro-
7 curement process supports the basis of the free enter-
8 prise system while guaranteeing maximum return on
9 Federal procurement expenditures;

10 (6) the costs of performing governmental functions
11 are borne by the taxpayer regardless of whether the
12 functions are performed in the private or public sector;

13 (7) the integrity of the governmental process, es-
14 pecially when consulting services, management and
15 professional services, and special studies and analyses
16 are used in the performance of governmental functions,
17 requires full public disclosure of the use and role of
18 contractors who perform such functions; and

19 (8) legislation and oversight is necessary to
20 achieve the consistent policies and practices needed in
21 Federal procurement of consulting services, manage-
22 ment and professional services, and special studies and
23 analyses.

24 STATEMENT OF POLICY

25 SEC. 3. It is the policy of the United States that—

1 (1) governmental policymaking and decisionmak-
2 ing functions should be performed by accountable Fed-
3 eral officials;

4 (2) the procurement of consulting services, man-
5 agement and professional services, and special studies
6 and analyses by contract should be in compliance with
7 applicable laws and regulations; and

8 (3) governmental functions should be accomplished
9 through the most economical means available while
10 recognizing the inherently governmental nature of cer-
11 tain activities.

12 TITLE I—APPOINTMENTS

13 REVISION OF SECTION 3109 OF TITLE 5

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

16 "§ 3109. Employment of individual experts and
17 consultants

18 "(a) For the purpose of this section—

19 "(1) 'agency' has the same meaning as in section
20 552(e) of this title;

21 "(2) 'appointed consultant' means an individual—

22 "(A) who has a high degree of knowledge,
23 skill, or experience in a particular field, and

24 "(B) whose primary function is to serve an
25 agency in an advisory capacity in that field,

1 rather than to perform or supervise an operating
2 function of the agency; and

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

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

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

11 “(C) whose primary function is to perform or
12 supervise an operating function of an agency
13 rather than to provide advisory services.

14 “(b) When authorized by an appropriation Act or other
15 statute, the head of an agency may appoint and fix the pay of
16 appointed experts and consultants for temporary (not in
17 excess of one year) or intermittent services, without regard
18 to—

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

21 “(2) chapter 51 and subchapter III of chapter 53
22 of this title (relating to position classification and pay
23 rates).

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

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

6 “(d) The Office of Personnel Management shall pre-
7 scribe regulations governing the employment of appointed ex-
8 perts and consultants and the reporting requirements of this
9 section, and may take such action as it considers appropriate
10 to assure compliance with those regulations, including audit
11 of individual cases, and, if necessary, suspension of the au-
12 thority to appoint experts and consultants. Agencies shall
13 comply with the requirements of the Office, including taking
14 any corrective action the Office may direct.

15 “(e) Each agency shall report to the Office of Personnel
16 Management on a periodic basis with respect to—

17 “(1) the number of days each appointed expert or
18 appointed consultant employed by the agency during
19 the period was so employed, and

20 “(2) the total amount paid by the agency to each
21 appointed expert and appointed consultant for such
22 work during the period.

23 “(f) The head of any agency with statutory authority to
24 appoint experts and consultants without regard to the provi-
25 sions of this section shall, to the extent practicable and in

1 keeping with the provisions of such authority, appoint such
2 experts and consultants in a manner consistent with the pro-
3 visions of this section.

4 “(g) The head of each agency shall establish procedures
5 for the review and approval of—

6 “(1) any determination relating to the need for the
7 services of an appointed expert or appointed consultant
8 under this section; and

9 “(2) the appointment of each appointed expert or
10 appointed consultant.”.

11 (b) The table of sections at the beginning of chapter 31
12 of title 5, United States Code, is amended by striking out the
13 item relating to section 3109 and inserting in lieu thereof the
14 following new item:

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

15 EFFECTIVE DATE

16 SEC. 102. The amendments made by this title shall take
17 effect one hundred and eighty days after the date of enact-
18 ment of this Act.

19 TITLE II—CONTRACTS

20 DEFINITIONS

21 SEC. 201. For purposes of this title:

22 (1) The term “agency” has the same meaning as in sec-
23 tion 552(e) of title 5, United States Code.

1 (2) The term "contract" means (A) any agreement, in-
2 cluding any amendment to or modification of an agreement,
3 between the Government and a contractor for the procure-
4 ment of goods and services, or (B) any letter authorizing a
5 contractor to provide goods or services to the United States
6 prior to a specification of the compensation for the provision
7 of such goods or services.

8 (3) The term "contractor" means any person, firm, un-
9 incorporated association, joint venture, partnership, corpora-
10 tion or affiliates thereof, including consultants and organiza-
11 tions thereof, which is a party to a contract with the
12 Government.

13 (4) The term "report" means a written study, plan,
14 evaluation, analysis, manual, or similar document, in draft or
15 final form, which is prepared by a contractor pursuant to a
16 contract with an agency and which is submitted—

17 (A) to such agency, or

18 (B) on behalf of such agency to any other agency
19 of the Government,

20 but does not mean a billing document, invoice, or other rou-
21 tine business transmittal made with respect to the contract.

22 (5) The term "consulting services" means advisory
23 services with respect to agency administration and manage-
24 ment or agency program management.

1 (6) The term "management and professional services"
2 means professional services related to management and con-
3 trol of programs, including—

4 (A) management data collection services;

5 (B) policy review and development services;

6 (C) program evaluation services;

7 (D) program management support services;

8 (E) program review and development services;

9 (F) systems engineering services; and

10 (G) other management and professional services of
11 a similar nature which are not related to any specific
12 program.

13 (7) The term "special study or analysis" means any
14 nonrecurring examination of a subject which—

15 (A) is undertaken to provide greater understand-
16 ing of relevant issues and alternatives regarding orga-
17 nizations, policies, procedures, systems, programs, and
18 resources; and

19 (B) leads to conclusions or recommendations with
20 respect to planning, programing, budgeting, decision-
21 making, or policy development.

22 Such term includes—

23 (i) any study initiated by or for the program man-
24 agement office;

1 (ii) a cost benefit analysis, a data analysis (other
2 than a scientific analysis), an economic study or analy-
3 sis, an environmental assessment or impact study, a
4 feasibility study which does not relate to construction,
5 a legal or litigation study, a legislative study, a regula-
6 tory study, or a socioeconomic study;

7 (iii) a geological study, a natural resources study,
8 a scientific data study, a soil study, a water quality
9 study, a wildlife study, or a general health study; or

10 (iv) any similar special study or analysis.

11 PUBLICATION OF CONTRACTS

12 SEC. 202. (a) Notwithstanding any other provision of
13 law, as soon as an agency completes preparation of a pro-
14 curement request for consulting services, management and
15 professional services, or a special study or analysis which the
16 agency estimates will result in the award of a contract in
17 excess of \$10,000, the agency shall transmit to the Secretary
18 of Commerce a written notice describing such contract. The
19 Secretary of Commerce shall publish each notice received
20 pursuant to this subsection in the publication "Commerce
21 Business Daily" published by the Department of Commerce.
22 An agency is not required to transmit to the Secretary of
23 Commerce a notice with respect to any contract—

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

4 (2) which is awarded due to such an unusual and
5 compelling emergency that the Government would be
6 seriously injured if prior notice of the contract were re-
7 quired to be published.

8 (b) Whenever an agency modifies a contract for consult-
9 ing services, management and professional services, or a spe-
10 cial study or analysis, and in the modification of such con-
11 tract increases the amount of the contract award by at least
12 \$25,000, the agency shall transmit to the Inspector General
13 of such agency or comparable official, or in the case of an
14 agency which does not have an Inspector General or compa-
15 rable official, the head of the agency or his designee, a writ-
16 ten notice describing—

17 (1) the original contract;

18 (2) the modification being made; and

19 (3) the justification for the modification.

20 DISCLOSURE OF INFORMATION CONCERNING THE USE OF
21 CONTRACTORS

22 SEC. 203. Each report prepared by a contractor pursu-
23 ant to a contract for consulting services, management and
24 professional services, or a special study or analysis, and each
25 report prepared by an agency which is substantially derived

1 from or includes substantial portions of any such report, shall
2 include a statement disclosing—

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

5 (2) the total amount of the contract;

6 (3) whether the contract was awarded through
7 competitive or noncompetitive procedures;

8 (4) the name of the office which or employee who
9 authorized the award of the contract;

10 (5) in any case in which a contractor uses a sub-
11 contractor to prepare any portion of a report for an
12 agency, the name and business address of the subcon-
13 tractor and the amount paid to the subcontractor for
14 the work;

15 (6) the names of all employees of the contractor,
16 and any subcontractor, who substantially contributed to
17 the report; and

18 (7) in any case in which an organizational conflict
19 of interest has been determined under section 205 to
20 exist with respect to the contract, the facts and cir-
21 cumstances of the conflict of interest.

22 CONTRACT EVALUATION

23 SEC. 204. (a) Within one hundred and twenty days after
24 the completion of any contract for consulting services, man-
25 agement and professional services, or a special study or anal-

1 ysis, the total amount of which is in excess of \$50,000, the
2 agency shall prepare a written evaluation of the contract per-
3 formance. The evaluation shall include a summary of the per-
4 formance of the contractor under the contract, including--

5 (1) the performance of the contractor, based upon
6 the terms and specifications included in the contract;
7 and

8 (2) any deviation by the contractor from the pro-
9 visions of the contract originally awarded with respect
10 to cost and time for completion of the contract and a
11 statement of the reasons for any such deviation.

12 (b) The agency shall include the evaluation required by
13 subsection (a) in the records maintained by the agency re-
14 garding the contract and shall maintain a copy of the evalua-
15 tion in a central location within the agency.

16 (c) A written copy of any evaluation made under this
17 section shall be transmitted to the contractor concerned to-
18 gether with a notice stating that the contractor may, within
19 ten days after receipt of such copy, transmit comments to the
20 agency concerning such evaluation. Any such comments shall
21 be included in the evaluation as a supplement.

22 ORGANIZATIONAL CONFLICT OF INTEREST

23 SEC. 205. (a) Beginning on the effective date of this title
24 and ending three years after such date, this section applies to
25 the award of contracts by the Department of Energy, the

1 Department of Transportation, and the Environmental Pro-
2 tection Agency.

3 (b) For purposes of this section:

4 (1) The term "organizational conflict of interest" means
5 any relationship or situation in which an offeror or contractor
6 has past, present, or anticipated interests that either directly,
7 or indirectly through a client relationship, relate to work to
8 be performed under a contract for consulting services, man-
9 agement and professional services, or a special study or anal-
10 ysis, and which—

11 (A) may diminish the capacity of the offeror or
12 contractor to give impartial, technically sound, and ob-
13 jective assistance and advice; or

14 (B) may result in an unfair competitive advantage
15 to the offeror or contractor;

16 but such term does not include the normal flow of benefits
17 from the performance of the contract.

18 (2) The terms "offeror" and "contractor" include—

19 (A) a chief executive or director of the offeror or
20 contractor, to the extent that such executive or direc-
21 tor will or does become substantially involved in the
22 performance of a contract entered into with an agency;
23 and

24 (B) a consultant or subcontractor proposed to be
25 used by the offeror or contractor in the performance of

1 a contract entered into with an agency in any case in
2 which such consultant or subcontractor may be per-
3 forming services similar to the services provided by the
4 offeror or contractor.

5 (c)(1) Whenever an offeror submits to any agency a pro-
6 posal for a contract for consulting services, management and
7 professional services, or a special study or analysis, the of-
8 feror shall include with such proposal—

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

12 (B) a statement certifying, to the best knowledge
13 and belief of such offeror, that no relevant facts exist
14 relating to such an existing or potential organizational
15 conflict of interest.

16 (2) Any consultant or subcontractor which any such
17 offeror proposes to use in the performance of a contract
18 described in paragraph (1) shall also submit a statement
19 containing the information required by paragraph (1) to the
20 agency receiving the proposal.

21 (3) In any case in which a contract described in para-
22 graph (1) has been entered into by an agency and a modifica-
23 tion of the contract becomes necessary, the contractor and
24 any consultant or subcontractor used by the offeror in the
25 performance of the contract shall submit to the agency—

1 (A) the same type of statement with respect to
2 such modification as required by paragraph (1) with re-
3 spect to a contract; or

4 (B) a revision of any statement submitted under
5 paragraph (1) which relates to any potential organiza-
6 tional conflict of interest concerning such modification.

7 (4) Each contractor, consultant, and subcontractor
8 which has submitted a statement under this subsection shall
9 submit, on a timely basis, revisions of such statement as may
10 be necessary to clearly and accurately reflect any changes in
11 circumstances relating to an existing or potential organiza-
12 tional conflict of interest arising after the statement was
13 made or last revised.

14 (d) The head of each agency to which this section ap-
15 plies shall establish or designate an office to administer the
16 provisions of this section with respect to contract proposals
17 and contracts of the agency. The head of each such office
18 shall evaluate each statement received pursuant to subsection
19 (c) to determine whether an organizational conflict of interest
20 or the appearance of such a conflict exists with respect to the
21 contract for which the statement is submitted. In making
22 such evaluation, the head of such office shall—

23 (1) consider whether—

24 (A) the offeror, contractor, consultant, or
25 subcontractor has conflicting roles or interests

1 which might bias the judgment of the offeror, con-
2 tractor, consultant, or subcontractor concerning
3 the work to be performed pursuant to the con-
4 tract; or

5 (B) the offeror or contractor will have an
6 unfair advantage in the performance of the con-
7 tract; and

8 (2) pay particular attention to proposed contrac-
9 tual requirements which call for the provision of
10 advice, evaluation, or other actions which will have a
11 direct effect on future decisions of the agency relating
12 to contracts, procurement, research and development
13 programs, production, or regulatory activities.

14 (e) Whenever the head of an office established or desig-
15 nated under subsection (d) determines that an organizational
16 conflict of interest or that the appearance of such a conflict
17 exists with respect to a contract for consulting services, man-
18 agement and professional services, or a special study or anal-
19 ysis, or a proposal for such a contract, he shall transmit a
20 notice of his determination to the offeror or contractor in-
21 volved. Within 10 days after the receipt of such notice, the
22 offeror or contractor may transmit written comments to the
23 head of the office concerning the determination or may trans-
24 mit such comments to the head of the agency with a request
25 that the head of the agency review such determination.

1 Within thirty days after receiving such a request, the head of
2 the agency shall review the determination of the head of the
3 office and shall issue a written decision. In conducting such
4 review, the head of the agency may request the offeror or
5 contractor to provide additional information concerning the
6 issues involved. The head of the agency shall transmit a copy
7 of his decision under this subsection to the offeror or contrac-
8 tor and the head of the office.

9 (f) If, prior to the award of a contract for consulting
10 services, management or professional services, or a special
11 study or analysis, the head of the office determines that an
12 organizational conflict of interest or the appearance of such a
13 conflict exists with respect to the contract, and such determi-
14 nation is not reversed by the head of the agency—

15 (1) the agency shall disqualify the offeror from eli-
16 gibility for award of the contract or, in the case of an
17 organizational conflict of interest or the appearance of
18 such a conflict involving a consultant or subcontractor
19 proposed to be used by the offeror in the performance
20 of the contract, shall prohibit the offeror from using the
21 services of such consultant or subcontractor;

22 (2) the agency shall include in the contract award-
23 ed to the offeror such conditions as the agency deter-
24 mines would avoid an organizational conflict of interest

1 or the appearance of such a conflict involving such of-
2 feror or any consultant or subcontractor; or

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

5 (A) the facts and circumstances surrounding
6 the contract necessitate immediate action; and

7 (B) the agency is unable to obtain the serv-
8 ices to be performed pursuant to the contract from
9 any other person other than the offeror, consul-
10 tant, or subcontractor involved in the organiza-
11 tional conflict of interest or the appearance of
12 such a conflict,

13 the agency may award the contract to the offeror if the
14 agency includes in the records maintained by the
15 agency on the contract, makes available to the public,
16 and transmits to each committee of the Senate and the
17 House of Representatives having legislative jurisdiction
18 over the agency, a complete statement of the relevant
19 facts disclosed by the offeror, consultant, or subcon-
20 tractor pursuant to subsection (c), or otherwise known
21 or made available to the agency.

22 (g)(1) If, after the agency has entered into a contract for
23 consulting services, management and professional services,
24 or a special study or analysis, the head of an office estab-
25 lished or designated in the agency under subsection (d) deter-

1 mines that an organizational conflict of interest or the ap-
2 pearance of such a conflict exists with respect to the con-
3 tract, and such determination is not reversed by the head of
4 the agency, the agency shall—

5 (A) terminate the contract; or

6 (B) in any case in which termination is not in the
7 best interest of the Government, modify the contract to
8 the extent necessary to prevent or mitigate to the
9 greatest extent possible the conflict or the appearance
10 of the conflict and include in the records maintained by
11 the agency on the contract, make available to the
12 public, and transmit to each committee of the Senate
13 and the House of Representatives having legislative ju-
14 risdiction over the agency, a complete statement of the
15 relevant facts determined to exist regarding the offeror,
16 consultant, or subcontractor.

17 (2)(A) Except as provided in subparagraph (B), a con-
18 tractor who has entered into a contract with an agency for
19 consulting services, management and professional services,
20 or a special study or analysis, or a consultant or a subcon-
21 tractor to any such contractor shall have no claim against the
22 United States for damages as a result of an action of an
23 agency under paragraph (1) (other than a claim specified pur-
24 suant to a convenience clause in the contract), but such a
25 contractor, consultant, or subcontractor may have a claim

1 against the United States for compensation for work per-
2 formed prior to such agency action.

3 (B) A contractor who has entered into a contract with
4 an agency for consulting services, management and profes-
5 sional services, or a special study or analysis, or a consultant
6 or a subcontractor to any such contractor shall have no claim
7 for compensation for work performed prior to an agency
8 action under paragraph (1) if it is determined that such con-
9 tractor's, consultant's, or subcontractor's failure to complete-
10 ly disclose the relevant facts under subsection (b) precluded a
11 determination of the existence of an organizational conflict of
12 interest or the appearance of such a conflict involving such
13 contractor, consultant, or subcontractor prior to the award of
14 the contract.

15 (h) Two years after the effective date of this title, the
16 Comptroller General of the United States, in conjunction
17 with the Director of the Office of Management and Budget,
18 shall commence an evaluation of the operations of the provi-
19 sions of this section, and, within nine months after the com-
20 mencement of such evaluation, shall prepare and transmit a
21 report to the Congress concerning the result of such evalua-
22 tion, including recommendations for the continuation, modifi-
23 cation, or termination of such provisions.

1 BUDGET IDENTIFICATION AND JUSTIFICATION

2 SEC. 206. (a) The head of each agency shall include
3 with the request for regular appropriations for each fiscal
4 year submitted to the Director of the Office of Management
5 and Budget pursuant to section 215 of the Budget and Ac-
6 counting Act, 1921 (31 U.S.C. 23), an itemized statement of
7 the amounts requested by the agency for procurement in such
8 fiscal year. The statement shall identify such amounts ac-
9 cording to the same subfunctional categories to be used by
10 the President in the submission of the Budget for such fiscal
11 year pursuant to section 201(a) of such Act (31 U.S.C. 11),
12 and, within each such category, shall identify such amounts
13 according to classifications for (1) procurement of consulting
14 services, management and professional services, and special
15 studies and analyses, and (2) all other procurement activities.

16 (b) The Budget transmitted by the President to the Con-
17 gress for each fiscal year under section 201(a) of the Budget
18 and Accounting Act, 1921 (31 U.S.C. 11) shall set forth sep-
19 arately, within each subfunctional category used in such
20 Budget, requests for new budget authority for, and estimates
21 of outlays by, each agency for (1) procurement of consulting
22 services, management and professional services, and special
23 studies and analyses, and (2) all other procurement activities.

24 (c)(1) By April 1 of the fiscal year preceding the fiscal
25 year for which the Budget is submitted pursuant to section

1 201(a) of the Budget and Accounting Act, 1921, the head of
2 each agency shall prepare and transmit to the Committees on
3 Appropriations of the Senate and the House of Representa-
4 tives an analysis of each request for new budget authority
5 and of the estimates of outlays included in such Budget for
6 such agency pursuant to subsection (b) of this section and a
7 statement justifying the need for each such request and
8 estimate.

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

16 FEDERAL PROCUREMENT DATA SYSTEM

17 SEC. 207. (a) The Administrator for Federal Procure-
18 ment Policy shall establish a data system for the collection
19 and dissemination of information regarding all contracts en-
20 tered into by each agency. The system shall classify every
21 contract or contract modification for an amount in excess of
22 \$10,000 as either for professional type services or for com-
23 mercial and industrial type activities, and shall include for
24 each such contract or contract modification—

25 (1) the name of the agency awarding the contract;

1 (2) an identification number or other designation
2 for the contract or modification, as the case may be;

3 (3) the name of the contracting office of the
4 agency which awarded the contract;

5 (4) the name of the contractor;

6 (5) whether the contractor is a small business or a
7 minority business;

8 (6) the date on which the contract award or the
9 modification was made;

10 (7) the city, county, State, or country in which
11 the work under the contract will be performed;

12 (8) a brief description of the work to be performed
13 under the contract;

14 (9) the total dollars payable by the Government
15 under the contract;

16 (10) the estimated completion date of the contract;

17 (11) whether the contract was awarded through
18 competitive or noncompetitive procedures;

19 (12) the type of contract, such as a cost reim-
20 bursement contract or fixed price contract; and

21 (13) if applicable, the negotiation authority used
22 to award the contract under the provisions of section
23 2304(a) of title 10, United States Code, or section
24 302(c) of the Federal Property and Administrative
25 Services Act of 1949.

1 (b)(1) Consistent with otherwise applicable law, the Ad-
2 ministrator for Federal Procurement Policy shall make infor-
3 mation within the system available, on request, to the Con-
4 gress, the various agencies, and the public.

5 (2) The Administrator for Federal Procurement Policy
6 shall prepare and transmit to the Congress quarterly and
7 annual reports regarding the information maintained on each
8 agency within the system.

9 (c) Each agency shall provide such information to the
10 Administrator for Federal Procurement Policy as may be
11 necessary to assure that the data concerning the agency in
12 the system and in the reports under subsection (b)(2) is cur-
13 rent, accurate, and complete.

14 PUBLIC AVAILABILITY

15 SEC. 208. (a)(1) Each agency shall compile and make
16 available to the public a list of all contracts entered into by
17 the agency during the twelve-month period immediately pre-
18 ceding the month in which the list is prepared and a separate
19 list of all contracts entered into by the agency for which per-
20 formance has not been completed at the time of the prepara-
21 tion of such list. The lists shall be updated on a quarterly
22 basis and shall include, for each such contract—

23 (A) the contract identification number assigned by
24 the agency;

25 (B) the contractor's name;

1 (C) the date of award and the estimated comple-
2 tion date;

3 (D) the original and current amounts to be paid
4 by the agency under the contract; and

5 (E) a brief description of the work to be per-
6 formed.

7 (2) Every agency shall prepare and maintain a written
8 statement justifying the need for each contract for consulting
9 services, management and professional services, or a special
10 study or analysis which is entered into by the agency. The
11 statement shall include the name of the Government em-
12 ployee who authorized the award of the contract and the
13 Government employee who is responsible for the administra-
14 tion of the contract.

15 (3) Each agency shall permit the public to inspect and
16 make copies of the list prepared under paragraph (1) and the
17 statements prepared under paragraph (2). The agency may
18 make a reasonable charge for the costs of making such
19 copies.

20 (b)(1) Except in any case in which the disclosure of a
21 contract or any information therein is prohibited by law, and
22 except in any case in which, for national security reasons, the
23 terms of a contract are lawfully determined to be of a classi-
24 fied nature—

1 (A) all contracts shall be considered public infor-
2 mation and shall be available to the public upon re-
3 quest; and

4 (B) the following information shall be available to
5 the public for every contract for consulting services,
6 management and professional services, or a special
7 study or analysis:

8 (i) the name and qualifications of any person-
9 nel designated in the contract; and

10 (ii) the sole source justification if such con-
11 tract was awarded on a sole source basis.

12 (2) Paragraph (1) does not require an agency to make
13 technical proposals available to the public.

14 EXEMPTIONS

15 SEC. 209. Notwithstanding any other provision of this
16 Act, contracts for consulting services, management and pro-
17 fessional services, and special studies or analyses, and any
18 data, reports, or other material pertaining thereto, which
19 relate to sensitive foreign intelligence or foreign counterintel-
20 ligence activities, which relate to sensitive law enforcement
21 investigations, or which are classified under the national se-
22 curity classification system are exempt from the provisions of
23 this title.

EFFECT ON OTHER LAW

1

2 SEC. 210. The provisions of this title shall supersede
3 any statute enacted before the date of enactment of this Act
4 to the extent such statute is inconsistent with the provisions
5 of this title.

6

EFFECTIVE DATE

7

8 SEC. 211. The provisions of this title shall take effect
9 one hundred and eighty days after the date of enactment of
this Act.

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