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REPORT TO THE COMMITTEE  
ON GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES

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74-0044



Recommendations Of The  
Commission On Government  
Procurement:  
Executive Branch Progress  
And Status

B-160725

BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES

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JAN.31.1974



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-160725

CI  
P The Honorable Chet Holifield, Chairman  
Committee on Government Operations 101500  
House of Representatives

Dear Mr. Chairman:

In response to your request of a year ago, we are continuing to monitor executive branch actions on recommendations of the congressionally created Commission on Government Procurement. This third in a series of quarterly reports summarizes as of January 1, 1974:

- Executive branch progress.
- Status of the 149 Commission recommendations.
- Progress toward establishing a focal point of executive branch leadership and coordination.
- Status of congressional legislation.

The executive branch has made considerable progress in recent months. The task groups charged with proposing policy positions and implementing actions have presented submissions for executive branch review on 79 of the 149 Commission recommendations (as opposed to 3 at mid-August 1973). Proposed actions on about 25 of these recommendations are now being coordinated with the heads of individual agencies and 3 are being coordinated with the private sector. Action is complete on one recommendation.

Our current appraisal is that completing a program of this nature, size, and complexity is likely to require a long time--at least several years of effort. Some of the influencing factors are:

- The program is basically a part-time effort.
- The executive branch review and coordination steps are extensive and time consuming, and recycling of many recommendations is also required.

B-160725

In the future we plan to submit semiannual progress reports to your Committee, supplemented by briefings and interim staff communications on matters of special interest.

Sincerely yours,

A handwritten signature in black ink, reading "Thomas P. Staets". The signature is written in a cursive style with a large, prominent initial 'T'.

Comptroller General  
of the United States

## C o n t e n t s

	<u>Page</u>
CHAPTER	
1 INTRODUCTION	1
2 EXECUTIVE BRANCH PROGRESS	3
Submissions in process at task group level	5
Submissions in process at executive branch management review level	6
Current appraisal of program	7
Part-time effort	8
Extensive review, coordination, and recycling	8
Priorities and completion dates on final actions	9
Coordination between executive and legislative branches	13
Recommendations to the Director, OMB and the Administrator of GSA	13
Recommendation to the House and Senate Committees on Government Operations	13
Early industry participation	14
Recommendation to the Administrator of GSA	15
3 PROGRESS TOWARD ESTABLISHING FOCAL POINT FOR LEADERSHIP AND COORDINATION	16
Office of Federal Procurement Policy	20
4 STATUS OF CONGRESSIONAL LEGISLATION	24
Congressional coordination in shaping procurement policies	25
Matter for consideration by the House Committee on Government Operations	26
APPENDIX	
Status of individual commission recommendations as of January 1, 1974	29

## ABBREVIATIONS

AEC	Atomic Energy Commission
ASPR	Armed Services Procurement Regulation
CSC	Civil Service Commission
DDR&E	Director of Defense Research and Engineering
DOD	Department of Defense
DOJ	Department of Justice
DOL	Department of Labor
DOT	Department of Transportation
GAO	General Accounting Office
GSA	General Services Administration
HEW	Department of Health, Education, and Welfare
NASA	National Aeronautics and Space Administration
NSF	National Science Foundation
NSF/OST	National Science Foundation, Office of Science and Technology
OASD	Office of Assistant Secretary of Defense
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
SBA	Small Business Administration
USDA	U.S. Department of Agriculture

CHAPTER 1

INTRODUCTION

In 1969, following extensive public hearings, the Congress created a Commission on Government Procurement and gave it a broad charter to study Federal Government procurement. A bipartisan 12-member Commission representing the executive and legislative branches and private business conducted the study.

The Commission examined the procurement process in three ways.

1. General setting--organizations, personnel, basic authorities, and controls.
2. Sequence of procurement events.
3. Types--acquisition of research and development, major systems, commercial products, professional services, and construction.

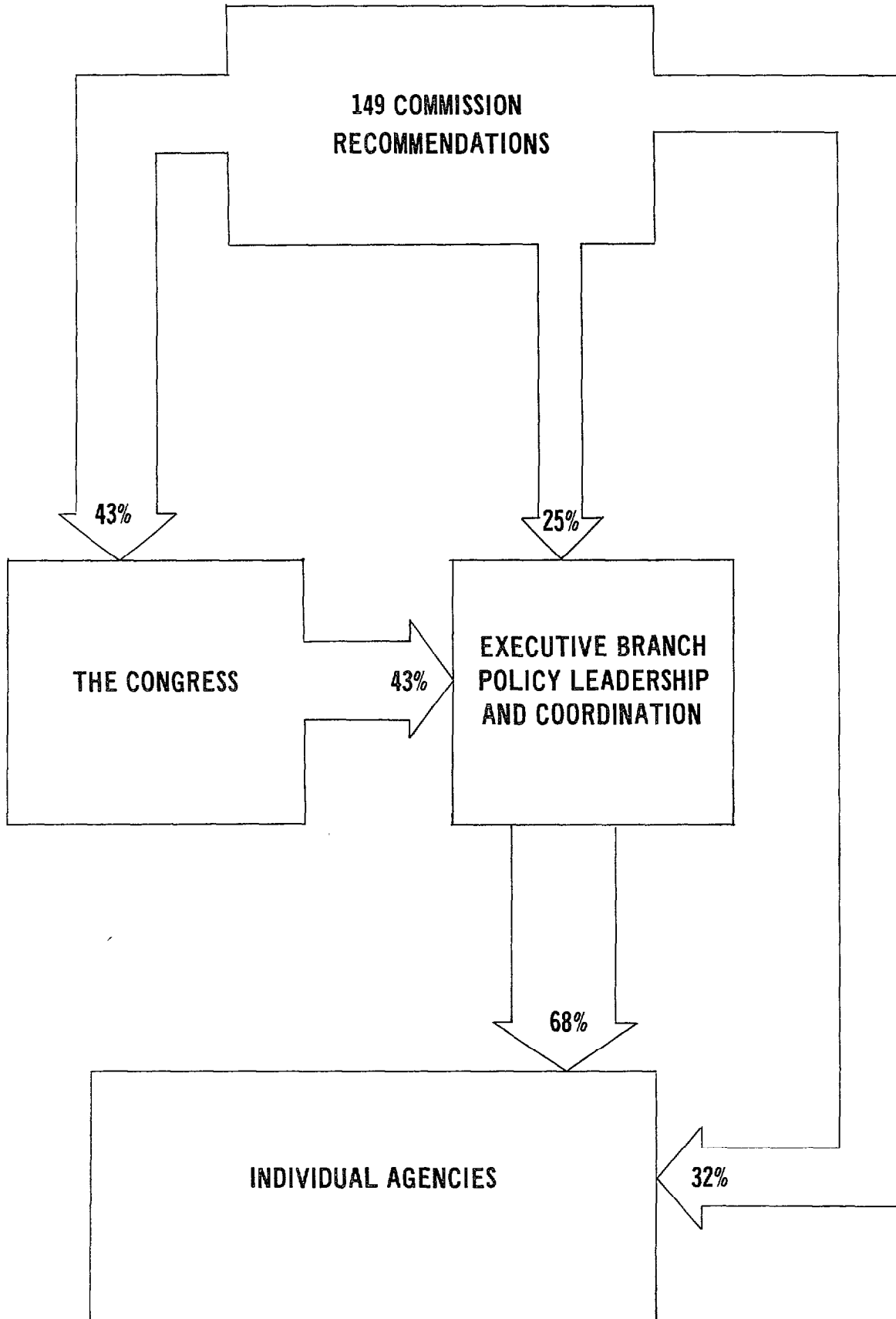
The 5 volume Commission report contains 149 recommendations.<sup>1</sup> (See appendix for a summary of each recommendation.) To implement most of them, some form of coordinated Government-wide action will be required in the executive branch. Almost half the recommendations will also require legislation. Others may be accomplished through individual agency action. (See chart 1.)

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<sup>1</sup>Report of the Commission on Government Procurement (Washington: Government Printing Office, 1972.)

CHART 1

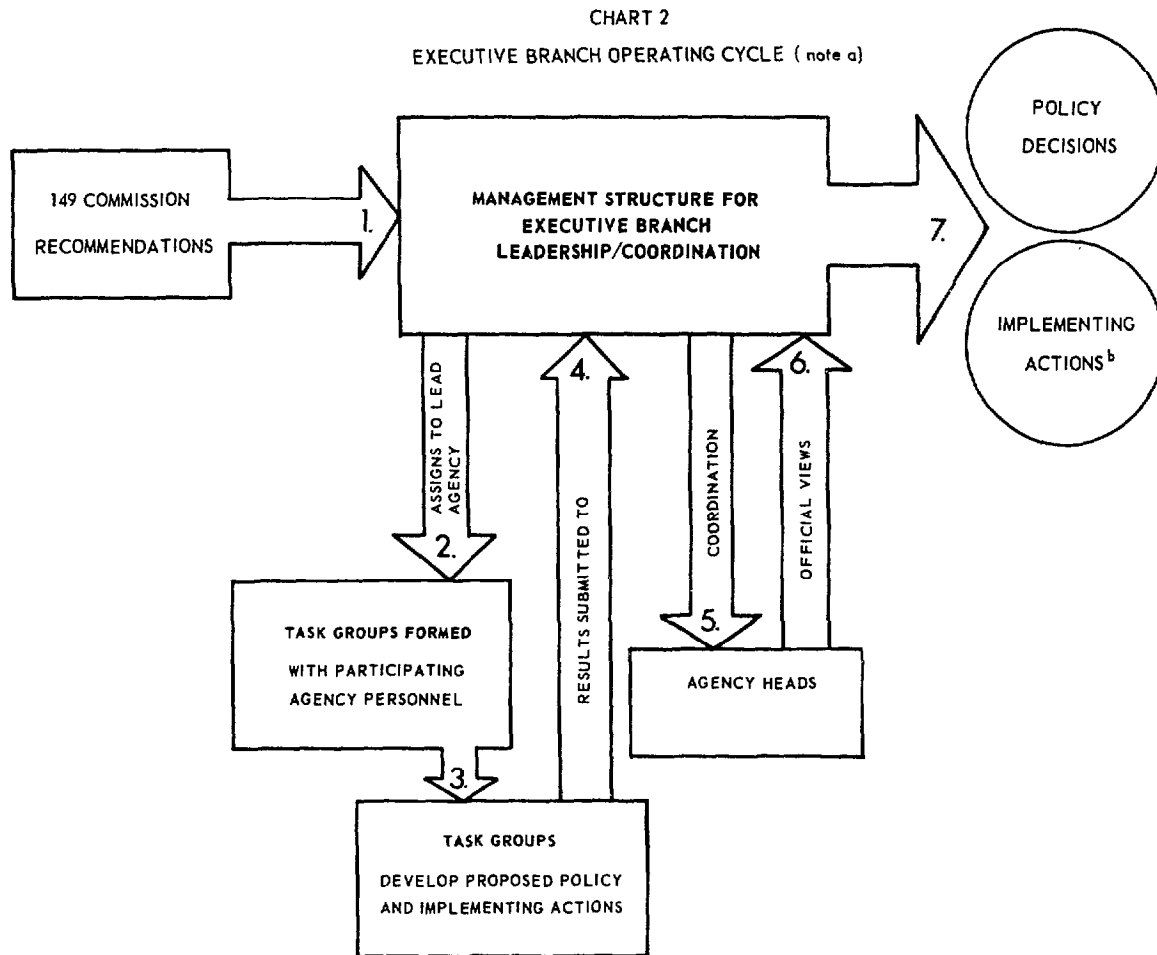
**EXTENT OF GOVERNMENT-WIDE ACTION  
INDICATED IN COMMISSION RECOMMENDATIONS**



CHAPTER 2

EXECUTIVE BRANCH PROGRESS

Reports one and two in this series described the executive branch program for developing policy positions and implementing actions on Commission recommendations. Chart 2 shows the operating steps specified in that program.



<sup>a</sup> Steps 4,5, and 6 may be repeated several times, 1.

<sup>b</sup> May be in the forms of legislation, executive order, OMB circular, regulation, or agency directive and may require prior coordination with industry.

As step 2 shows, the executive branch program uses the lead agency concept; that is, selected individual agencies are made responsible for guiding or leading the executive branch in reviewing and implementing assigned recommendations. The Commission report suggested this concept as a



means of developing Government-wide policy proposals. The lead agencies have been directed to consider the potential impact of a Commission recommendation on all those affected, both Government and non-Government.

The lead agencies, in turn, have reassigned the recommendations to selected internal components which are usually assisted by one or more other participating agencies. Participating agencies are those invited or volunteering to help in lead agency assignments. The lead agency component and participating agency representatives constitute a task group, with the chief lead agency representative as leader. Currently, there are 14 lead agencies, 74 task groups, and 330 participating agency assignments.

As step 4 shows, a task group submits its proposed policy position and implementing action to a management structure in the executive branch responsible for leadership and coordination in formulating procurement policy.

Our second report described in detail the several interacting elements in this management structure.

--A GSA Office of Procurement Management.

--An Interagency Procurement Policy Advisory Group.

--An OMB Office of Procurement Policy (not yet established).

--A Federal Procurement Council in the Executive Office of the President (not yet established).

In step 5, task group submissions will be officially coordinated with the heads of affected agencies and, in selected instances, with industry. In step 6, the comments of agency heads and industry will be evaluated and, if necessary, the submission returned to the lead agency for additional work and, possibly, repetition of the cycle. (At any point in the review process, in fact, the submissions may be returned to the task groups for further work.) In step 7, the implementing action is completed by enacting legislation and/or by issuing an executive order, OMB circular, regulation, or agency directive.

# BEST DOCUMENT AVAILABLE

We obtained progress and status information as of January 1, 1974, from the 74 lead agency task groups and from officials of OMB and GSA who were assigned executive branch leadership-coordination responsibilities. We also held special interviews with 15 of the lead agency task group leaders. Table 1 summarizes the progress made since our last report.

Table 1

	<u>Number of recommendations</u>	
	<u>At Aug. 10, 1973</u>	<u>At Jan. 1, 1974</u>
Lead agency task group submissions:		
In process at task group level	146	70
In process at executive branch management review level	3	78
Actions completed	<u>-</u>	<u>1</u>
Total	<u>149</u>	<u>149</u>

## SUBMISSIONS IN PROCESS AT TASK GROUP LEVEL

Table 2 below shows the various stages of development on the 70 recommendations in process at the task group level and when they are expected to be submitted to the executive branch.

Table 2

	<u>Number of recommendations</u>
Task group stage of development:	
Review and analysis:	
Pending	13
Completed	14
First draft of proposal completed	5
Awaiting response from participating agencies	17
Processing submission or resubmission	<u>20</u>
Total	<u>70</u>
Targeted for submission by:	
February	51
April	4
June	7
Not established	<u>8</u>
Total	<u>70</u>

The task group's data indicates certain trends in the timeliness and level of their efforts. As shown, most task group efforts have gone beyond the first draft stage and 17 are awaiting responses from participating agencies. The task groups have targeted their submissions on the remaining 70 recommendations during the next 6 months of 1974, except for 7 OMB assignments and 1 Department of Transportation assignment which lack completion dates.

SUBMISSIONS IN PROCESS AT EXECUTIVE BRANCH  
MANAGEMENT REVIEW LEVEL

The executive branch management level has 79 recommendations under review and coordination. Table 3 shows the status of these recommendations reached at January 1, 1974.

Table 3

<u>Stage of review and coordination</u>	<u>Number of recommendations</u>
In GSA Office of Procurement Management	43
To be returned for additional work	2
In Interagency Procurement Policy Advisory Group	7
Out for comments by:	
Agency heads	22
Agency heads and private sector	3
Under consideration for final action	1
Actions completed and Commission recommendations:	
Adopted	<sup>a</sup> 1
Modified	-
Rejected	-
Total	<u>79</u>

<sup>a</sup> Recommendation D-15, conforming automatic data processing equipment clause with other procurement practices (see appendix).

About one-fourth of the submissions are in category B. These submissions differ from those in category A in that they normally contain policy positions only, as explained in the appendix. The task groups will develop implementing

actions for category B submissions after a policy decision has been made. Status information on each individual recommendation can be found in the appendix. As executive branch processing of lead agency submissions progresses, the appendix eventually will show:

- When coordination with agency heads and industry is completed.
- Final disposition of Commission recommendations, with explanations of modifications or rejections.
- Type of implementing action taken--legislation, executive order, OMB circular, regulation, etc.
- Effective date of statutory or regulatory action.

#### CURRENT APPRAISAL OF PROGRAM

The executive branch has instituted a comprehensive Government-wide program to evaluate and implement Commission recommendations. Considerable progress is evident. On more than half the recommendations, initial task group submissions have been made. Proposed actions on about 25 of these are now being officially coordinated with the heads of individual agencies and 3 are being coordinated with the private sector. Completing a program of this nature, size, and complexity is likely to require at least several years of effort. Some of the influencing factors are:

- The program is basically a part-time effort.
- Executive branch review and coordination steps are extensive and time consuming; recycling of many recommendations is also required. An overall plan has yet to be developed setting forth priorities and completion dates for final executive branch action.
- A legislative program involving almost half the recommendations has yet to be established and coordinated between the executive branch and appropriate congressional committees.

In addition, it is to be noted that a focal point of procurement policymaking authority does not exist in the

executive branch. At recent congressional hearings to establish such an authority (see ch. 3), the Administrator of GSA said that without some kind of legislation the time frame for completing the program would be considerably extended.

#### Part-time effort

Many lead agency task group leaders and members are expected to do their task group work on a part-time basis while performing their normal agency duties. Some said that they must work weekends and evenings to give their assignments the needed attention. Members of the task groups, representing both lead agencies and participating agencies, face the same problem. Task group leaders say it is difficult to schedule meeting dates and get responses from members, particularly those from participating agencies, because of conflicting time demands on the individuals. Many participating members and some leaders are involved in one or more other task group assignments that also require their time.

#### Extensive review, coordination, and recycling

As noted previously, more than half the task group submissions on the 149 Commission recommendations have been made since the program started in April 1973. These submissions are an important first step in the executive branch's process of developing a Government-wide response. Many steps remain at the executive branch level, and at each step a submission may have to be returned to a task group for additional work and recycling through the executive branch.

For example, each submission or resubmission must be sequentially reviewed and cleared by the GSA Office of Procurement Management, the Interagency Procurement Policy Advisory Group, and the heads of many Federal agencies. For major policies, OMB and its planned Procurement Council are also called upon to participate in this review and coordination process.

For more than one-third of the recommendations (category B), the extensive executive branch review and coordination process must be repeated because policy positions for these recommendations must be developed and decided on before task groups can develop the necessary implementation actions.

Priorities and completion dates on  
final actions

The executive branch has not established relative priorities and completion dates for final actions on Commission recommendations. In view of the part-time nature of the executive branch program and the protracted review process involved, developing an action plan which assigns increased levels of effort to recommendations according to priority would help to accelerate the program. It is recognized that, previously, the executive branch may not have been in a position to develop a definitive action plan, but developing one should soon become practicable.

Under such a plan, recommendations assigned high priorities would receive the greatest task group levels of effort and the most management attention throughout the executive branch. Those assigned the lowest priorities could probably continue at the present part-time pace. Suggested criteria for distinguishing higher priority recommendations are those that:

- Seek an overall integrated procurement policy-setting framework.
- Are highly significant.
- Require legislation.
- Require earlier resolution because of their interrelationship with others.

Integrated procurement policy-setting framework. Recommendations providing an integrated framework for setting procurement policy and issuing Government-wide regulations need to be assigned the highest priorities. These are the recommendations for:

- Establishing an Office of Federal Procurement Policy or focal point in the executive branch for procurement policy leadership and coordination.
- Modernizing and consolidating existing procurement statutes to provide a common statutory framework for Government procurement policies.

--Establishing a single Government-wide coordinated system of procurement regulations.

The earliest possible implementation of these recommendations would provide the basic framework within which the executive branch, together with the Congress, could act most effectively on procurement matters, including the other Commission recommendations. (This is not to imply that some recommendations could not be implemented agency by agency before this basic framework was established.)

Significance of recommendation. Each recommendation's importance can be judged by such factors as (1) pervasiveness in the procurement process, (2) proportion of procurement dollars involved, and (3) pressures for its implementation in the executive branch, the Congress, and the private sector. Some inherently more significant recommendations are those concerned with fundamental changes in acquiring commercial products, major systems, and professional services. This significance criterion allows some flexibility in establishing levels of effort because priorities can be adjusted for changes in congressional or other interests for needed reform.

Legislative requirement. If legislation is required, as opposed to action by an individual agency, the protracted time and level of consideration needed to develop a policy, enact legislation, and issue regulatory guidance dictates a higher level of effort and priority, particularly if action on other recommendations had to wait on the outcome of particular legislation.

Interrelated recommendations. Proper resolution of some recommendations may require the resolution of one or more others because of their interrelationship. For example, the recommendation to use single overhead rates for all Government business at any one contractor facility is interrelated with implementing another recommendation for developing and using Government-wide contractor cost reimbursement principles. Such principles, however, can be implemented most efficiently if action is first taken on still another recommendation that the various procuring agencies use a single regulatory system.

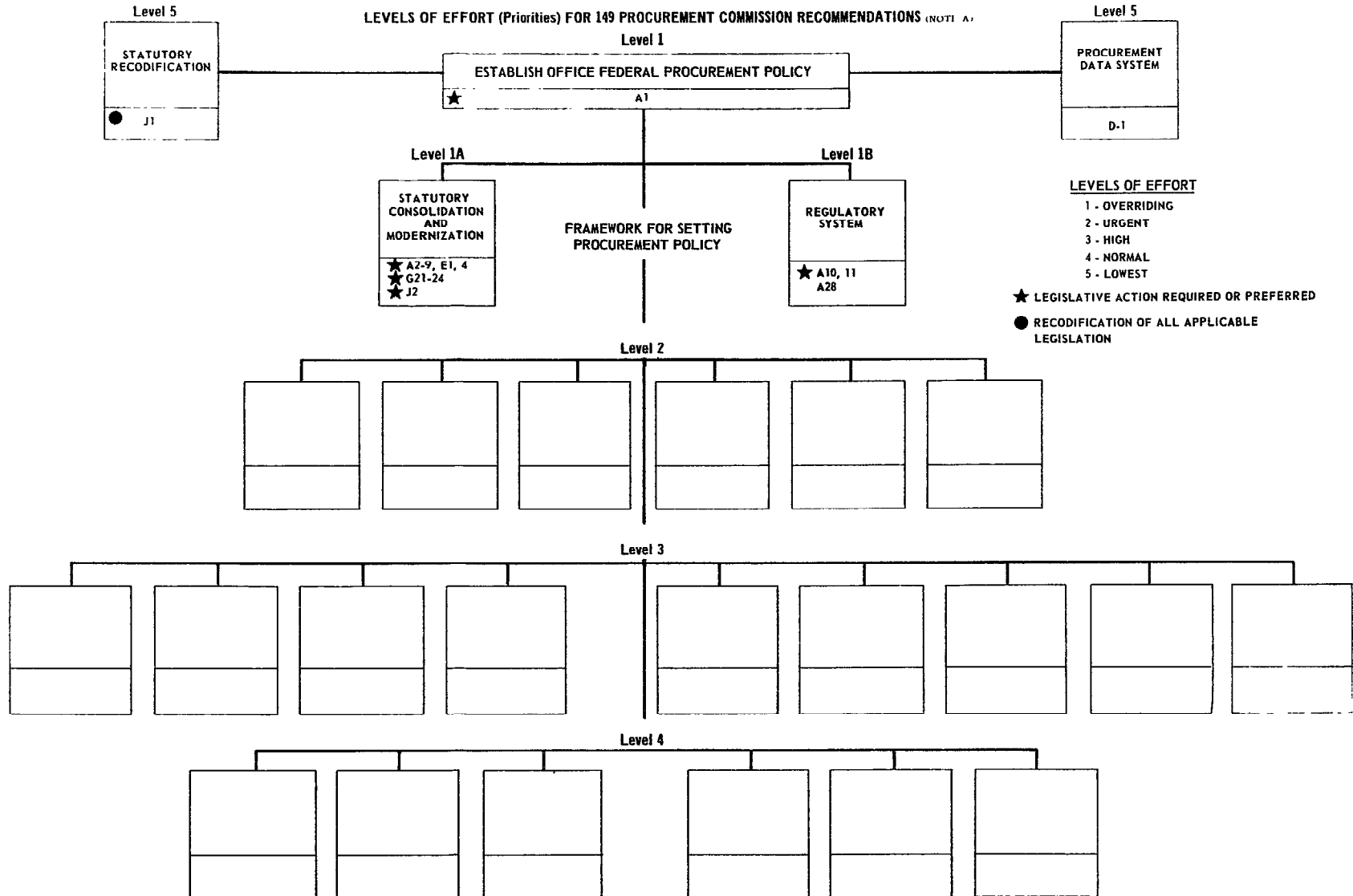
Another example involves recommendations for paying contractors' independent research and development costs. These

recommendations are interrelated with those on financing competing major system candidates during early conceptual and preliminary design phases. Since the two sets of recommendations involve direct versus indirect funding of the same kinds of costs, policy decisions are necessarily interrelated.

Chart 3 shows a proposed structure for setting levels of effort (priorities) based on the suggested criteria and applies the first one.



CHART 3  
 LEVELS OF EFFORT (Priorities) FOR 149 PROCUREMENT COMMISSION RECOMMENDATIONS (NOTE A)



NOTE A - The letter before each numbered recommendation refers to the section of the appendix and the Commission report where the recommendation can be found.

Coordination between executive  
and legislative branches

The Senate Ad Hoc Subcommittee on Federal Procurement will prepare its own overall priority plan for acting on Commission recommendations. (See ch. 4.) GSA has informed us that the executive branch is presently considering assigning priorities to some recommendations. Optimum progress can best be achieved on recommendations by coordinating executive branch and congressional legislative priorities. One approach would be for the House and Senate Committees on Government Operations to review periodically principal executive branch objectives to be accomplished on the recommendations. A statement of such objectives would also enable GAO to better correlate its monitorship responsibilities with the executive branch program.

Recommendations to the Director, OMB  
and the Administrator of GSA

To devise an overall action plan which would help accelerate the executive branch program, we recommend that OMB and GSA:

- Establish criteria and assign priorities for higher levels of effort to actions on Commission recommendations.
- Develop completion dates on final executive branch policy positions and implementing actions.
- Expedite establishment of legislative program and coordination with appropriate congressional committees.

Recommendations to the House and Senate  
Committees on Government Operations

To provide executive and congressional coordination on legislative priorities on Commission recommendations, we further recommend that the House and Senate Committees on Government Operations request the executive branch to coordinate periodically the principal objectives to be accomplished on Commission recommendations, including their completion dates.

## EARLY INDUSTRY PARTICIPATION

The Commission took the position that contractors and other interested parties should have opportunities to participate during the development of procurement policies and regulations. The Commission believed timely participation essential to insuring consideration of all information and available alternatives, promoting better understanding and relationships between the private sector and the Government, and enhancing the acceptability of regulations when finally adopted. In making its recommendation to improve such participation, the Commission observed that:

"agencies \* \* \* frequently solicit comments too late to be fully effective, and provide little or no rationale for proposed or adopted changes or for rejecting industry recommendations."<sup>1</sup>

The present executive branch program is a unique opportunity for contractors and other interested parties to participate in developing policy and its implementation, particularly in areas that will have a material impact on their subsequent actions. This has been pointed out in our two preceding progress reports. The executive branch replied in November 1973 that, since industry views had been sought and considered in forming many Commission recommendations, industry views would be most pertinent when the executive branch rejected a recommendation having substantial meaning to industry. Some task group leaders we interviewed held similar views.

These statements evidence some misunderstanding concerning this matter. It is true that many inputs were obtained from the private sector and from Government sources during the Commission study. However, the recommendations that emerged were formed by the Commissioners themselves, without further soliciting of private sector views on the final outcome. Even where industry or other interested

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<sup>1</sup>Report of the Commission on Government Procurement, vol. 1, pt. A, p. 39.

parties agree with the final outcome, their participation will still be helpful in formulating the implementing actions now being studied and developed. Some of these implementing actions may even be modifications of the recommendations made by the Commissioners.

We believe that task group leaders who are assigned recommendations impacting heavily on groups outside the executive branch should be encouraged to solicit informal inputs from such interested parties as early as possible. At least one task group leader had already taken the initiative to set up an industry panel to participate periodically and informally with his group. We recognize that decisions on the need and timing for formal private sector comments in selected instances is already part of the executive branch review process.

#### Recommendation to the Administrator of GSA

We recommend that GSA, pending resolution of the Commission recommendations on the same subject, issue guidelines to task group leaders emphasizing the need for early participation by interested parties on an informal basis in developing procurement policy and its implementation.

## CHAPTER 3

### PROGRESS TOWARD ESTABLISHING FOCAL POINT FOR LEADERSHIP AND COORDINATION

The Commission found that procurement policy and regulations had become needlessly complex, diverse, uncoordinated, and outdated and that the executive branch had no focal point of leadership and coordination where fundamental procurement policies could be developed, debated, coordinated, and, finally, published and implemented with authority and reasonable consistency. The executive branch needs such a central point to:

- Provide leadership and coordination for the many Federal agencies engaged in procurement operations.
- Initiate legislation to reform the presently fragmented and outmoded statutory base for procurement policy and, at the same time, consolidate or repeal the many redundant and obsolete laws.
- Arrest the proliferation of laws and regulations and to achieve uniformity when desirable.
- Aggressively monitor the policy of relying on the private sector.
- Bring about Government-wide exchange of successful ideas and to increase efficiency and economy in Government procurement operations (involving 80,000 personnel and some \$50 billion in annual expenditures).
- Build public confidence in Federal procurement practices with a visible improvement program responsive to both the President and the Congress.

The Commission report pointed out that OMB had not evidenced a continuing concern about overall procurement management and had little direct involvement in formulating

procurement policy.<sup>1</sup> The Commission's first recommendation was to create by law a small Office of Federal Procurement Policy (OFPP) in OMB or elsewhere in the Executive Office of the President.

At the time the Commission report was released, OMB had established a limited capability for procurement management but at a relative low organizational level. The limited capability was transferred to GSA in June 1973 following a Presidential Executive order<sup>2</sup> which assigned a series of management functions to GSA.

OMB has assumed lead agency responsibility for developing an executive branch position on the Commission recommendation to create an OFPP. There have been no meetings of the task group and no report is contemplated. (See appendix, recommendation A-1). In congressional hearings, OMB testified to the need for stronger central leadership but took the position that such leadership could be accomplished through revitalizing the existing structure. Our earlier reports discussed the proposed revitalizing of the executive branch management structure, including:

- Strengthening procurement policy leadership in GSA and assigning it responsibility for directing and coordinating executive branch action on Commission recommendations subject to OMB oversight on major policy matters.
- Establishing a group of interagency procurement policy advisors to assist GSA and OMB.
- Establishing in OMB a small office headed by a deputy assistant director and a Procurement Council in the Executive Office of the President to help resolve major policy matters. (These two elements of the management structure, planned to be in operation from August 1973, have not yet been implemented.)

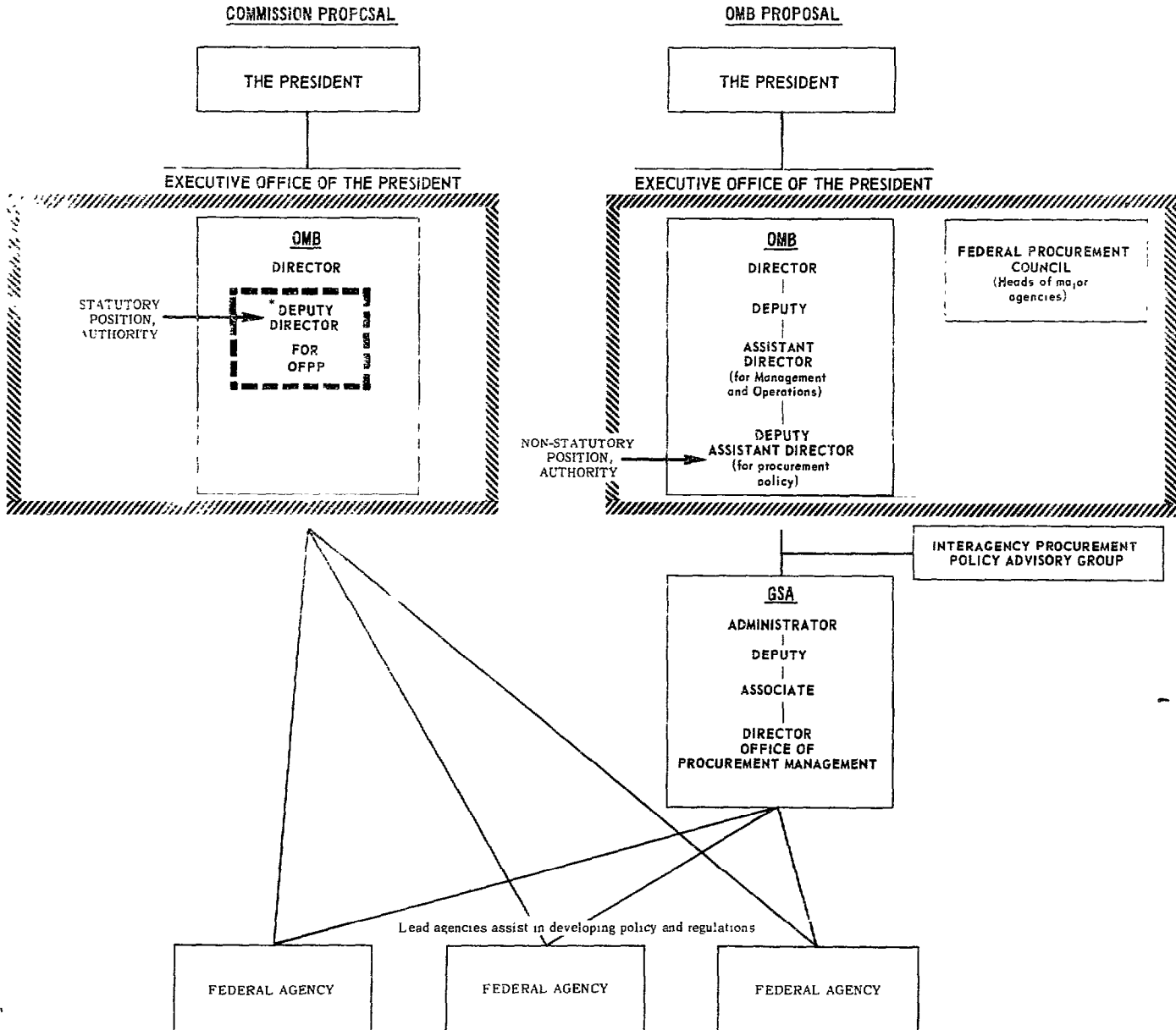
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<sup>1</sup>Report of the Commission on Government Procurement, vol. 1, pt. A, p. 11.

<sup>2</sup>Executive Order 11717, May 9, 1973.

Chart 4 compares the management structures proposed by OMB and the Commission, describes the differences between the two proposals in terms of stature, authority, continuity, and responsiveness to the Congress, and notes the current legislative approach to determining the head of the management structure.

CHART 4  
 COMPARISON OF MANAGEMENT STRUCTURES PROPOSED BY COMMISSION AND OMB FOR  
 EXECUTIVE BRANCH LEADERSHIP/COORDINATION OF PROCUREMENT POLICY



**DIFFERENCES IN TWO PROPOSALS**

- |                                  |  |  |   |
|----------------------------------|--|--|---|
| <b>STATURE:</b>                  | Commission proposes higher rank. Proposed OMB rank of Deputy Assistant Director may be too low to attract person with experience and prestige to guide Government-wide policy. OMB has not been able to recruit such a person.   | <b>CONTINUITY:</b>                     | Commission proposes statutory mandate. OMB proposal subject to changing priorities, emphasis. Two assistant directors have broken continuity, one departed, the other loaned to the President's new energy program. |
| <b>AUTHORITY/RESPONSIBILITY:</b> | Commission focuses in one area but promotes participatory management through lead agency concept. OMB proposal diffuses authority/responsibility without statutory support; resulting policy guidance may not be binding on agencies operating under the Armed Services Procurement Act. | <b>RESPONSIVENESS TO THE CONGRESS:</b> | Commission specifically proposes this as part of the legislative mandate. OMB believes that sufficient responsiveness can be provided without mandate.  |

\* Legislation approved by the Ad Hoc Subcommittee on Federal Procurement (S. 2510) locates the OFPP in the Executive Office of the President and heads it with an administrator to be appointed by the President with advice and consent of the Senate.



## OFFICE OF FEDERAL PROCUREMENT POLICY

The House and Senate have held hearings on two bills (H.R. 9059 and S. 2510) to create an OFPP. Our last report summarized the July 1973 House hearings, and, for the reasons described in chapter 2, we strongly recommended early congressional action to create such an office.

In October 1973 a new bill was introduced in the Senate containing several revisions to the House bill, including some suggested by our Office and other witnesses during the House hearings. This Senate bill was referred to the newly formed Ad Hoc Subcommittee on Federal Procurement. The major changes from the House bill:

- Clarified that the OFPP Administrator's directive authority flows from and is subject to the direction of the President within the terms of the OFPP Act.
- Removed emphasis on procedures and forms and made policies and regulations OFPP's principal concern.
- Included in the Administrator's functions (1) oversight responsibility for developing procurement personnel, (2) sponsorship of research in procurement policy and procedures, and (3) development of a uniform procurement transaction-reporting system.
- Explicitly clarified that OFPP would not interfere with individual procurement decisions or require grantee use of Federal sources of supply.
- Added a declaration of general policy on Federal procurement of goods and services.

The Ad Hoc Subcommittee held hearings in October and November 1973 on the revised bill. Public, private, and academic viewpoints were provided by such executive agencies as OMB, GSA, DOD, NASA, AEC, HEW, and SBA; industrial and professional associations; outside independent experts; and the Comptroller General. Table 4 summarizes the testimony on key issues.<sup>1</sup>

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<sup>1</sup>A more detailed summary of the testimony can be found in the soon-to-be-released Subcommittee report on S. 2510.

Table 4

<u>Witness</u>	<u>Need for OFPP (note a)</u>	<u>Need for legis-lation</u>	<u>OFPP location</u>	<u>OFPP functions</u>
OMB	Yes	Defer	OMB-GSA	No comment
GSA	Yes	Yes	Not in GSA	No comment
DOD	Yes	Defer	Use Federal Procurement Council	Coordination only
NASA	Yes	Defer	High level	Policy, not regulations
SBA	Yes	Yes	Defer decision	Emphasize simple uniform regulations
Other executive agencies	Yes	Defer	OMB-GSA or OMB	No comment
Industrial associations	Yes	Yes	OMB or Executive Office of the President	Confine to principles and policies
Outside experts	Yes	Yes	Regulatory board or commission	Various comments
Comptroller General	Yes	Yes	OMB or elsewhere In Executive Office of the President	Endorsed bill

<sup>a</sup> Agencies indicated a need either for an OFPP or for stronger central leadership-coordination.

Most executive agencies contended that the objectives of the OFPP bill could be accomplished through executive action. Some reasoned that steps to revitalize the current management structure should proceed; then, if that does not do the job, legislation should be considered in the spring of 1974.

GSA and SBA were two notable departures from the general tone of executive branch testimony. The Administrator of GSA said:

"It is my judgement that without any OFPP, and substituting any form of the status quo, modified, invigorated, or whatever you want to call it would change the time frame from maybe 5 to 7 years for reform to maybe 100 years. I do not think we are going to get the major reforms that are required by maintaining the status quo, no matter how you change it.

"I agree with the Commission, and as a Commissioner, that you have to have an OFPP. It has to have directive authority. This is the only way we are going to reform Government Procurement."

All witnesses outside the executive branch supported immediate legislation, believing that further delay was unwarranted because the executive branch would not act decisively without a congressional mandate.

Our position was that a clear congressional mandate, with the stature, authority, and continuity this would confer, was essential. The Comptroller General observed that the Commission's evidence indicated that such a leadership role could not be credibly satisfied by a low-key revitalization of the present structure and that the executive and legislative branch approaches need not be in conflict because;

1. OMB has committed itself to a stronger leadership role in procurement policy.
2. Legislation being considered would permit the President to assign OFPP policy responsibility to OMB.
3. Passage of legislation would greatly enhance the present role of OMB and resolve the conflict over authority to issue policy guidance for agencies covered by the Armed Services Procurement Act.

In December the Ad Hoc Subcommittee considered all suggestions made during the hearings, agreed on several revisions to the bill, and reported out a new bill to the Senate Committee on Government Operations. The principal additional changes:

- Clarified that meetings to promulgate new policies would be open to the public, with ample notice.
- Provided for a 5-year life, with a comprehensive congressional review required for OFPP extension.

- Required that new and major changes in policy be reported in advance to the Congress and be subject to disapproval within a 60-day period by either house.
- Limited the Administrator's power to delegate his basic authority and responsibilities to other executive agencies.
- Made a policy statement with a budget limitation to restrict OFPP to a small but highly qualified and competent staff.

## CHAPTER 4

STATUS OF CONGRESSIONAL LEGISLATION

As of January 1, 1974, Members of Congress have introduced bills responding to 30 of the 64 Commission recommendations requiring or indicating preferences for legislative action. Table 5 summarizes the status of legislative action on these Commission-related bills.

Table 5

<u>Bill number</u>	<u>Introduced 1973</u>	<u>Referred to</u>	<u>Purpose</u>	<u>Affected Commission recommendations (note a)</u>	<u>Status</u>
S. 1414	Mar.	Ad Hoc Subcommittee on Federal Procurement, Senate Government Operations Committee	To strengthen executive branch-congressional budget and program control	C-2,5	Reported out of committee as a separate bill and as amendment to budget reform bill S. 1541.
H.R. 9059	June	Legislation and Military Operations Subcommittee, House Government Operations Committee	To create an OFPP	A-1	Hearings held; consideration deferred until action on higher priority legislation complete.
H.R. 9060	June	Legislation and Military Operations Subcommittee, House Government Operations Committee	To clarify distinction between contract and grant-type assistance transactions	F-1	Consideration deferred pending action on high priority legislation.
H.R. 9061	June	Subcommittee for Claims and Governmental Relations, House Judiciary Committee	To revise, consolidate, and simplify basic procurement-statutes; provide statutory framework	A-2-9 E-1,4 G-21-24 J-2	Action pending receipt of comments from interested parties.
H.R. 9062	June	Subcommittee for Claims and Governmental Relations, House Judiciary Committee	To establish integrated system for resolving contract claims-disputes	G-2-12	Action pending receipt of comments from interested parties.
S. 2510	Oct.	Ad Hoc Subcommittee on Federal Procurement, Senate Government Operations Committee	To create an OFPP	A-1	Hearings held; bill approved by Subcommittee; anticipate floor action by Feb. 1974.
S. 2198	Oct.	Ad Hoc Subcommittee on Federal Procurement, Senate Government Operations Committee	To create an OFPP	A-1	Same proposal as H.R. 9059 and incorporated in updated legislation S. 2510.

<sup>a</sup>Alphabetical letter indicates the part of the Commission report and appendix to this report where the numbered recommendation can be found.

As most of the recommended legislation involves policy matters affecting multiple agencies, a coordinated Government-wide position on the proposed legislation is needed. Action by the House Judiciary Committee on two bills introduced in June 1973 (H.R. 9061 and 9062) is awaiting such a response from the executive branch.

Through a resolution passed in July 1973, the Senate now has a focal point for procurement matters in the form of the Ad Hoc Subcommittee on Federal Procurement. The Subcommittee, after completing hearings on the bill to create an OFPP (see ch. 3), revised and approved the bill and expects it to be brought to the Senate floor by February 1974.

Senate bill 1414, based in large part on Procurement Commission findings and recommendations and being handled by the Ad Hoc Subcommittee, has been reported out of the Senate Committee on Government Operations. Its purpose is to improve executive branch and congressional visibility, coordination, and control over the Federal budget and related programs. It intends to organize the Federal budget according to primary national needs, agency programs to meet those needs, and key program steps.<sup>1</sup>

The Ad Hoc Subcommittee will establish a master plan for acting on other procurement matters and intends to coordinate its actions with other committees having similar interests. For the short term, high priority is to be given to Commission recommendations involving (1) reliance on the private sector, (2) modernizing and consolidating basic procurement statutes, and (3) acquiring major systems.

#### CONGRESSIONAL COORDINATION IN SHAPING PROCUREMENT POLICIES

The Congress establishes fundamental procurement policies through legislation and thus participates in shaping Government-wide policy. In the past the actions of committees having jurisdiction over particular agencies and programs have brought about this legislation. Commission studies identified more than 4,000 procurement-related laws. Commission recommendations call for modernizing and consolidating basic procurement statutes, consolidating or repealing obsolete or redundant laws, and enacting new legislation in several important areas.

Because of the enormity of this task, the Senate last summer established the Ad Hoc Subcommittee on Federal Procurement. This Subcommittee plans to work with other committees having substantial interests in procurement matters and to hold joint hearings when desirable. This will permit a coordinated legislative approach to Government-wide procurement policy. Similar action in the House would help expedite congressional consideration and enhance the likelihood of favorable congressional action on needed procurement legislation.

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<sup>1</sup>See vol. 2, pt. C, "Acquisition of Major Systems," particularly recommendations C2 and C5.

Matter for consideration by the  
House Committee on Government Operations

The House Committee on Government Operations may wish to consider establishing a separate subcommittee or designating an existing subcommittee as a focal point for procurement matters to deal with modernizing and consolidating procurement statutes and with other procurement issues in coordination with interested committees.

**APPENDIX**



STATUS OF INDIVIDUAL COMMISSION RECOMMENDATIONS

AS OF JANUARY 1, 1974

<u>Recommendation</u> (note a)	<u>Category</u> (note b)	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>			
<b>ART A--GENERAL PROCUREMENT CONSIDERATIONS:</b>							
<b>Establishment of OFPP:</b>							
1. Establish by law a central OFPP to provide executive direction and coordination and to be responsive to the Congress (p. 9)	A	OMB	Management and operations	Frank G. Zarb			
<b>Statutory framework:</b>							
2. Consolidate existing legislation to provide a common statutory basis for establishing fundamental procurement policies and procedures applicable to all executive agencies (p. 15)	A	DOD	ASPR committee	Capt. L. E. Hopkins, U.S.N.			
3. Authorize competitive negotiation as an acceptable alternative to formal advertising, but require documented reasons for its use in procurements over \$10,000 (p. 20)	A	}	}	}			
4. Adjust statutory competitive negotiated procurement provisions to extend to all agencies, provide for competitive rather than maximum number of source solicitations, facilitate use of clarifying discussions in fixed-price competitions, and require inclusion of evaluation criteria in solicitations when basis of expected award will be other than lowest cost (p. 22)	A						
5. Require debriefings when requested by unsuccessful proposer in negotiated procurement (p. 25)	A						
6. Authorize sole source procurement when competitive procedures cannot be used, but require appropriate documentation for procurements over \$10,000 and agency approval at higher administrative level (p. 26)	A						
7. Raise ceiling to \$10,000 for use of simplified purchase procedures; OFPP reexamine at least every 3 years (p. 26)	A	}	}	}			
8. Authorize use of multiyear contracts with annual appropriations for clearly specified, firm requirements (p. 27)	A				DOD	ASPR committee	Capt. L. E. Hopkins, U.S.N.
9. Repeal contractor's statutory subcontract notification requirement (p. 28)	A				DOD	ASPR committee	Capt. L. E. Hopkins, U.S.N.
<b>Regulatory framework:</b>							
10. Establish a single Government-wide coordinated system of procurement regulations under control of OFPP (p. 31)	B	DOD	ASPR committee	Capt. L. E. Hopkins, U.S.N.			
11. Establish criteria for industry and public participation in procurement rulemaking (p. 38)	A	DOD	ASPR committee	Capt. L. E. Hopkins, U.S.N.			
<b>Procurement work force:</b>							
12. Make procurement an operational priority with other managerial functions in all agencies (p. 43)	A	NASA	Office of procurement	E. Golden			
13. Strengthen role of contracting officer; allow business judgment latitude (p. 44)	A	}	}	}			
14. Delegate contracting authority to qualified individuals; clarify understanding of authority (p. 44)	A				NASA	Office of procurement	E. Golden
15. Establish through OFPP agency responsibilities and standards for procurement personnel improvement program and monitoring system (p.46)	A						
16. Establish procurement recruitment and training program with special attention to college recruitment (p. 47)	A	CSC	Bureau of recruiting and examining	A. W. Howerton			
17. Provide better balance between employee tenure and promotion rights and agency needs (p. 48)	A	}	}	}			
18. Reconcile grade levels to responsibilities and professionalism required (p. 49)	A				CSC	Bureau of Policies and standards	W. R. Collins
19. Establish rotation program (p. 49)	A				CSC	Bureau of recruiting and examining	A. W. Howerton

<sup>a</sup>GAO prepared these short-form statements of the Commission's recommendations. They are not official substitutes for the full texts, which are contained on the indicated pages of the Commission's report.

<sup>b</sup>For commission recommendations classified as category A, policy positions and implementing actions may be developed and

Policy action				Implementation action					
Proposal submitted to executive branch	Coordination with agency heads completed	Recommendation accepted (A) modified (M) rejected (R)	Comments	Proposal submitted to executive branch	Type of action	Coordination with agency heads completed	Industry coordination completed	Statutory or regulatory requirement effected	Comments
Actual or (anticipated) date				Actual or (anticipated) date					
			No submission contemplated					No submission contemplated	
Nov. 1973				Nov. 1973					
Nov. 1973				Nov. 1973					
Nov. 1973				Nov. 1973					
(June 1974)				(June 1974)					
(June 1974)				(June 1974)					
Nov. 1973				Nov. 1973					
Oct. 1973				Oct. 1973					
Oct. 1973				Oct. 1973					
Dec. 1973				Dec. 1973					
Oct. 1973				Oct. 1973					

acted upon simultaneously through the steps shown in chart 2 of the report. Recommendations classified as category B are considered more complex, and policy decisions will be made before implementing actions are developed. The appendix identifies the category to which each recommendation has been assigned. As of January 1974, 91 of the recommendations were in category A and 58 in category B.

<u>Recommendation</u> (note a)	<u>Category</u> (note b)	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
PART A--GENERAL PROCUREMENT CONSIDERATIONS: (continued)				
Procurement work force: (continued)				
20. Structure longer range personnel programs (p. 49)	A	CSC	Bureau of recruiting and examining	A. W. Howerton
21. Establish a Federal procurement research and training institute (p. 51)	B	CSC	Bureau of training	J. J. Bean
Government make or buy decision:				
22. Establish through legislation a national policy of reliance on private enterprise for needed goods and services (with dissent) (p. 57)	B	OMB	Organization and special projects	J. Currie
23. Increase \$50,000 threshold for the cost comparison requirement to \$100,000 (with dissent) (p. 61)	B			
24. Establish through OFPP criteria for making cost comparisons on fully allocated, rather than incremental, cost basis when work is significant part of workload and Government investment is not substantial (with dissent) (p. 61)	B			
25. Increase threshold for new starts from \$25,000 new capital investment or \$50,000 additional annual operating cost to \$100,000 (with dissent) (p. 62)	B			
26. Increase cost differential to justify new in-house starts from 10-percent minimum to 25-percent maximum (with dissent) (p. 62)	B			
Timely financing of procurement:				
27. Initiate measures to eliminate executive and congressional delays in submitting and considering procurement fund requests and to make funds appropriated available promptly to procuring activities (with dissent) (p. 67)	A	OMB	Budget review	George H. Strauss
Selected areas in acquisition process:				
28. Establish Government-wide principles on cost allowability (p. 76)	A	DOD	OASD(I&L)	Charles E. Deardorff
29. Make single final overhead settlement binding on all Federal contracts at a given contractor location (p. 77)	B	DOD	OASD(I&L)	Capt. A. Kollios, U.S.N.
30. Establish uniform guidelines for equitable profit objectives in negotiated contracts, emphasizing consideration of capital, risk, complexity, management performance (p. 77)	B	GSA	Office of financial management	J. J. Lordan
31. Evaluate procurement negotiation procedures to compare completed contract results with original profit objectives (p. 78)	B			
32. Establish a contract payment office for all Federal agencies in each of 10 Federal regional areas (p. 79)	B	DOD	OASD(C)	Edwin F. Smith
33. Establish criteria for estimating costs and benefits of data requirements; make selective after-the-fact reviews to eliminate unnecessary requirements (p. 81)	A	DOD	Navy office of comptroller	J. Perry
34. Establish Government-wide criteria for management systems prescribed for contractor use, including standards for mission-essential data requirements (p. 82)	B	DOD	OASD(C)	Paul E. Wight
35. Stimulate contractor acquisition of production facilities through increased profit and guaranteed amortization of facilities specially acquired for Government programs (p. 86)	A	DOD	OASD(I&L)	Col. H. H. Conner
36. Authorize by law negotiated sale to using contractor of surplus heavy machine tools and production equipment not needed on full-time basis--with future availability to Government when needed (p. 87)	A	DOD	OASD(I&L)	Charles P. Downer
37. Establish Government-wide policy for review/approval of cost-type prime contractor procurement systems and transactions (p. 93)	A	DOD	DCAS	R. W. Dellas

Policy action				Implementation action					
Proposal submitted to executive branch	Coordination with agency heads completed	Recommendation accepted (A) modified (M) rejected (R)	Comments	Proposal submitted to executive branch	Type of action	Coordination with agency heads completed	Industry coordination completed	Statutory or regulatory requirement effected	Comments
Actual or (anticipated) date				Actual or (anticipated) date					
				Oct. 1973					
				Sept. 1973					To be returned by GSA for additional work
									No submission target date established
				Dec. 1973					Task group believes no implementation needed as budget reform legislation before Congress is deemed sufficient
				(Feb. 1974)					(Feb. 1974)
				Nov. 1973					Being returned by GSA for category B step 2
				(Feb. 1974)					
				(Feb. 1974)					
				(June 1974)					(June 1974)
				Dec. 1973					
				(Mar. 1974)					(Mar. 1974)
				(Jan. 1974)					(Jan. 1974)
				Nov. 1973					Nov. 1973

BEST DOCUMENT AVAILABLE

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<u>Recommendation (note a)</u>	<u>Category (note b)</u>	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
PART A--GENERAL PROCUREMENT CONSIDERATIONS: (continued)				
Procurement of professional services:				
38. Competitively negotiate procurement professional services with selection based primarily on technical competence and merits of proposed end product rather than fee (p. 98)	A	HEW	Office of asst. secretary for health	A. Schwartz
Field contract support:				
39. Establish program to promote interagency use of field contract administration, audit, and other support services (p. 103)	A	DOD	OASD(I&L)	Capt. A. Kollios, U.S.N.
40. Transfer to Defense Contract Administration Services military service cognizance of plants not exempted by Secretary of Defense (p. 104)	B	DOD	OASD(I&L)	Capt. A. Kollios, U.S.N.
41. Separate Defense Contract Administration Services from Defense Supply Agency (p. 105)	B			
42. Consolidate Defense Contract Administration Services and Defense Contract Audit Agency into one Agency reporting directly to Secretary of Defense (with dissent) (p. 107)	B			
National socioeconomic policies implemented through procurement process:				
43. Establish program for legislative and executive re-examination of socioeconomic objectives implemented through procurement process (p. 118)	A	Labor	Office of solicitor	H. Rose
44. Raise threshold to \$10,000 for applying socioeconomic programs to procurement process (p. 120)	A	Labor	Employment standards administration	J. O. Hall
45. Find means to make more visible the socioeconomic costs incurred in procurement process (p. 122)	A	Labor	Asst. Sec. for policy evaluation and research	L. Gold
46. Revise policies to provide for uniform debarment treatment and broader sanctions for comparable violations of socioeconomic requirements (p. 123)	A	Labor	Employment standards administration	J. O. Hall
Procurement from small business:				
47. Establish new standards for measuring agency and prime contractor performance in using small business (p. 128)	A	SBA	Office of procurement assistance	Ben S. Read
48. Test feasibility of mandatory small business subcontracting (p. 130)	A			
49. Initiate executive branch procurement review, with guidance from SBA and OFPP, to enhance small business participation (p. 133)	A			

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<u>Recommendation (note a)</u>	<u>Category (note b)</u>	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
PART B--ACQUISITION OF RESEARCH AND DEVELOPMENT (R&D):				
Federal R&D objectives and organization:				
1. Conduct R&D procurement to be responsive primarily to agency mission needs and then, when possible, to needs of other Federal activities (p. 6)	B	NSF	Office of deputy director	R. L. Bisplinghoff
2. Allow discretionary use of Government laboratory R&D funds in limited amount for any national research and development objective (p. 6)	B	NSF	Office of deputy director	R. L. Bisplinghoff
3. Encourage agencies with R&D missions to generate associated long-range basic research and advanced studies programs (p. 7)	B			
Performance of R&D:				
4. Strengthen in-house procurement-related technical and management capabilities to support technology advancement in private sector (p. 14)	A			
5. Continue optional use of federally funded R&D centers to satisfy needs outside organizational resources; reassess need periodically and give special attention to termination provisions when need ceases (p. 16)	A	DOD	AF deputy chief of staff (R&D)	Col. W. N. Jackonis
6. Monitor NSF and Bureau of Standards experimental R&D incentives program; translate results into practical application (p. 21)	A	OMB	Energy & Science	H. Loweth
R&D procurement policy:				
7. Eliminate restraints on submission of unsolicited proposals by private sector in R&D procurements to encourage flow of creative and innovative ideas (p. 25)	A	NASA	Office of university affairs	E. M. James
8. Eliminate R&D cost sharing except when performers clearly benefit (p. 26)	A	NASA	Office of university affairs	E. M. James
9. Eliminate recovery of R&D costs from Government contractors and grantees except those related to unusual and expensive programs and approved by agency head (p. 28)	B	DOT	I&L	D. L. Siegel
10. Establish a policy recognizing that independent R&D and bid proposal costs should receive uniform Government-wide treatment as necessary allowable overhead costs of doing business with exceptions handled by OFPP (with dissent against a 50-percent rule) (p. 31)	B	DOD	OASD (I&L)	Charles E. Deardorff
11. Encourage standardized Government-wide use of grant and contract-type master agreements with respect to R&D (p. 46)	B	AEC	Division of contracts	C. Armstrong
12. Require senior procurement agency official to justify degree of restraint placed in contractual hardware exclusion provision when potential organizational conflict of interest exists between Government and R&D contractor (p. 47)	A	AEC	Division of contracts	D. Shiller

NOT AVAILABLE

Policy action				Implementation action					
<u>Proposal submitted to executive branch</u>	<u>Coordination with agency heads completed</u>	<u>Recommendation accepted (A) modified (M) rejected (R)</u>	<u>Comments</u>	<u>Proposal submitted to executive branch</u>	<u>Type of action</u>	<u>Coordination with agency heads completed</u>	<u>Industry coordination completed</u>	<u>Statutory or regulatory requirement effected</u>	<u>Comments</u>
<u>Actual or (anticipated) date</u>				<u>Actual or (anticipated) date</u>					
Dec. 1973									Task group believes no implementation action is needed
Dec. 1973									
Dec. 1973									
Dec. 1973				(Jan. 1974)					
Oct. 1973				Oct. 1973					
			No submission target date established						No submission target date established
Nov. 1973				Nov. 1973					
(Mar. 1974)				(Mar. 1974)					
Unknown			Submission target date dependent on final decision of President's Council on Int'l. Economic Policy.						Task group leader believes category will be changed to "A"
(Mar. 1974)									
(Jan. 1974)									
Nov. 1973				Nov. 1973					



<u>Recommendation</u> (note a)	<u>Category</u> (note b)	<u>Lead agency</u> <u>responsible</u>	<u>Agency</u> <u>activity</u> <u>responsible</u>	<u>Task group</u> <u>leader</u>
PART C--ACQUISITION OF MAJOR SYSTEMS:				
Needs and goals for new major acquisition programs:				
1. Start new system acquisition programs with needs and goals (1) stated by agency head independently of any system product, (2) reconciled with overall agency capabilities and resources, and (3) specified in terms of anticipated total mission cost, projected capability level to be achieved, time period for achievement, and assignment of agency component responsibility (p. 109)	B			
2. Provide appropriate congressional committees with annual review of missions, capabilities, deficiencies, and new acquisition needs and goals as basis for reviewing agency budgets (p. 109)	B			
Exploring alternative systems:				
3. Support technology-based activities of agency missions, but do not fund fully designed hardware for subsystems until they are identified as part of system candidates to meet specific operational needs (p. 133)	B			
4. Create alternative system candidates within stated needs and goals for new acquisition programs by soliciting proposals from industry, including smaller firms with production potential, and by sponsoring most promising ones selected by agency component heads using team of experts (p. 133)	B			
5. Finance exploration of most promising alternative system candidates by (1) proposing development budgets, (2) authorizing, appropriating, and allocating R&D funds according to mission need, and (3) monitoring funds through annual budget reviews using updated mission needs and goals (p. 133)	B	DOD	DDR&E	Lt. Gen. Coffin
Choosing a preferred system:				
6. Maintain competition between system exploration contractors by (1) limiting commitments to annual fixed-level awards and technical program reviews, (2) assigning experienced agency representatives to advise contractors, and (3) concentrating agency development and technical organization efforts on monitoring, testing, and evaluating contractor efforts (p. 133)	B			
7. Limit premature commitments and maintain system-level competition through field demonstration by (1) having selected contractors prove chosen technical approach is sound and system definition of candidate system is practical before final development, production, and operational use commitments, (2) providing them with final evaluation operational test, mission performance, and lifetime ownership cost criteria, and (3) strengthening agency's development, procurement, and life-cycle cost estimating capability (p. 143)	B			
8. For systems chosen without competing candidates, obtain agency head approval, integrate technical and management contributions from in-house groups and contractors, establish technical and management control through a strong centralized program office, select contractors for known capabilities in dealing with program problems, and estimate program cost within a probable range (p. 143)	B			
System implementation:				
9. Withhold agency and congressional full production commitments pending reconfirmation of need and system performance test and evaluation; establish operational test activity separate from developer and user, define its scope agencywide, and strengthen capabilities (p. 166)	B	DOD	DDR&E	RADM F. S. Peterson
10. Use contracting as system acquisition tool, not management substitute; set guidelines to permit flexibility in applying contracting regulations, including use of simplified final development and production contract clauses and priced production options when critical test milestones have minimized risk (p. 171)	B			
11. Unify major acquisition policy and monitoring at agency and component management levels; integrate technical and business management policy; assign program managers upon program initiation; institute career program to insure varied and enlarged personnel experience and to reduce agency and industry management layering, reviews, procedures, reporting, and paperwork (p. 178)	B	DOD	DDR&E	Lt. Gen. R. E. Coffin
12. Delegate technical and program decision authority to operating agency components except for key agency head decisions for program needs and goals and for approving systems for demonstration, final development, and full production (p. 178)	B			

APPENDIX

Policy action				Implementation action					
Proposal submitted to executive branch	Coordination with agency heads	Recommendation accepted (A) modified (M) rejected (R)	Comments	Proposal Submitted to executive branch	Type of action	Coordination with agency heads completed	Industry coordination completed	Statutory or regulatory requirement effected	Comments
_____ Actual or (anticipated) date _____				_____ Actual or (anticipated) date _____					

(Jan. 1974)

(Jan. 1974)

(Jan. 1974)

<u>Recommendation</u> (note a)	<u>Category</u> (note b)	<u>Lead agency</u> responsible	<u>Agency</u> activity responsible	<u>Task group</u> leader
PART D--ACQUISITION OF COMMERCIAL PRODUCTS:				
Commercial products marketplace:				
1. Improve collection and dissemination of commodity and agency procurement statistics for congressional, executive branch, and industry needs (p. 5)	A	GSA	Federal Supply Service	Russell Allen
Commercial products requirements:				
2. Provide means for users to communicate extent of satisfaction with centralized supply support system in order to evaluate its effectiveness (p. 17)	A	GSA	Federal Supply Service	Sylvester Kish
3. Reevaluate commercial-type product specifications every 5 years, limit new Federal specifications for commercial-type products to those specifically justifiable, and use purchase descriptions if Federal specifications are unavailable (p. 18)	A	GSA	Federal Supply Service	C. C. Travis
4. Assign policy responsibility to OFPP for developing and coordinating Federal specifications (p. 18)	B	GSA	Federal Supply Service	C. C. Travis
Acquisition of commercial products:				
5. Encourage use of headquarters procurement staff to train field procurement personnel on the job in implementing techniques and identifying innovations related to their needs (p. 30)	A	GSA	Federal Supply Service	R. Hill
6. Provide statutory authority and assign OFPP responsibility for policies to achieve greater economy in procuring, storing, and distributing commercial products used by Government and, in interim, establish standards to permit using agency organizations to make local economical buys directly from commercial sources if not inconsistent with centralized procurement requirements and if lower total economic costs can be achieved; establish industrial funding when practical for interagency commercial product support activities; provide for continuous evaluation on a total economic cost basis of agency procurement and distribution systems (p. 32)	B	GSA	Federal Supply Service	C. C. Yeake1
7. Require overseas activities to consider direct procurement of U.S.-made commercial products from overseas distribution sources when cost effective (p. 38)	A	DOD	AF central and support procurement branch	N. L. Wilansky
8. Authorize primary grantees the option to use Federal sources of supply to support more than 60-percent federally financed programs, provided Government is fully reimbursed for such use (with dissent) (p. 39)	B	GSA	Federal Supply Service	F. D. Kehew
9. Require grantor agency to have procedures for insuring appropriate use of Federal supplies and computing total costs for Government reimbursement (with dissent) (p. 39)	B			
10. Assign OFPP to monitor implementation of recommendations D8 and D9 (p. 39)	B			
Special products and services:				
11. Reevaluate ADPE acquisition procedures in light of total economic cost (p. 46)	A	GSA	Automated data and telecom service	J. L. DeProspero
12. Require GSA to establish ADPE procurement delegation policy to promote effective preplanning of agency requirements and optimum use of manpower (p. 48)	A			
13. Authorize multiyear leasing of ADPE to permit procurement on a cost-effective basis (p. 48)	A			
14. Develop standard benchmarks to be used in evaluating ADPE proposals (p. 51)	A			
15. Conform ADPE late-proposal clause with other procurement practices (p. 51)	A			



<u>Recommendation</u> (note a)	<u>Category</u> (note b)	<u>Lead agency</u> <u>responsible</u>	<u>Agency</u> <u>activity</u> <u>responsible</u>	<u>Task group</u> <u>leader</u>
PART D--ACQUISITION*COMMERCIAL PRODUCTS: (continued)				
Special products and services: (continued)				
16. Assign to OFPP or other Presidential-designated agency the responsibility for consistently and equitably implementing the legislative food-acquisition policy (p. 54)	B	USDA	Commodity operations division	B. D. Ensley
17. Establish by law a central coordinator of agency management responsibilities for Federal food-quality assurance program (p. 54)	B	USDA	Agriculture marketing service	R. P. Bartlett, Jr.
18. Encourage acceptance of commercial provisions and forms used for industry and public in agency procurement of utility supplies and services (p. 61)	B	GSA	Federal supply service	H. D. Miller
19. Determine whether more innovative transportation procurement techniques are warranted when alternative sources and modes are available (p. 61)	A	GSA	Federal supply service	J. F. Reutemann

# APPENDIX

Policy action				Implementation action					
Proposal submitted to executive branch	Coordination with agency heads completed	Recommendation accepted (A) modified (M) rejected (R)	Comments	Proposal submitted to executive branch	Type of action	Coordination with agency heads completed	Industry coordination completed	Statutory or regulatory requirement effected	Comments
-----Actual or (anticipated) date-----				-----Actual or (anticipated) date-----					
(Feb. 1974)		Initial submission made Sept. 1973 but returned for additional work							
(Mar. 1974)		Initial submission made Oct. 1973 but returned for additional work							
(Jan. 1974)									
Dec. 1973				Dec. 1973					

<u>Recommendation</u> (note a)	<u>Category</u> (note b)	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
<b>PART E--ACQUISITION OF CONSTRUCTION AND ARCHITECT AND ENGINEERING SERVICES:</b>				
1. Procure architect-engineer services through competitive negotiations with selection based primarily on technical competence and merits of end product, including cost--fee should not be a dominant factor (with dissent) (p. 115)	B	GSA	Public building service	W. A. Meisen
2. Provide policy guidance through OFPP for including estimated total life-cycle costs in architect-engineer proposals on projects estimated to cost more than \$500,000 when realistic estimates are feasible (with dissent) (p. 115)	B			
3. Consider reimbursing proposal submission costs to architect-engineer when unusual design and engineering problems and substantial work efforts are required (p. 115)	A			
4. Repeal statutory architect-engineer fee limit and authorize OFPP policy guidelines to insure consistency and to protect Government interest (p. 122)	A			
<b>PART F--FEDERAL GRANT-TYPE ASSISTANCE PROGRAMS:</b>				
1. Distinguish through legislation the procurement (contract) and assistance (grant) relationships and authorize use of instruments reflecting these relationships (p. 162)	A	HEW	Office of asst. sec. for admin. & management	T. Reynolds
2. Urge OFPP to undertake or sponsor a feasibility study on developing a system of guidance for Federal assistance programs (p. 168)	A	GSA	Office of financial management	P. A. Marcantonio

APPENDIX

<u>Policy action</u>				<u>Implementation action</u>					
<u>Proposal submitted to executive branch</u>	<u>Coordination with agency heads completed</u>	<u>Recommendation accepted (A) modified (M) rejected (R)</u>	<u>Comments</u>	<u>Proposal submitted to executive branch</u>	<u>Type of action</u>	<u>Coordination with agency heads completed</u>	<u>Industry coordination completed</u>	<u>Statutory or regulatory requirement effected</u>	<u>Comments</u>
<u>Actual or (anticipated) date</u>				<u>Actual or (anticipated) date</u>					
Dec. 1973				Dec. 1973					
Sept. 1973				Sept. 1973					
(Jan. 1974)				(Jan. 1974)					Initial submission made Nov. 1973 but returned for additional work



Recommendation (note a)

Category  
(note b)

Lead agency  
responsible

Agency  
activity  
responsible

Task group  
leader

PART G--LEGAL AND ADMINISTRATIVE REMEDIES:

Disputes arising in contract performance:

- | <u>Recommendation</u> (note a)  | <u>Category</u><br>(note b) | <u>Lead agency</u><br><u>responsible</u> | <u>Agency</u><br><u>activity</u><br><u>responsible</u> | <u>Task group</u><br><u>leader</u> |
|---|-----------------------------|--|--|------------------------------------|
| 1. Clarify to contractor the identity and authority of contracting officer and other designated officials to act for Government in contract disputes (p. 12)  | A                           |  |  |                                    |
| 2. Provide informal review conference of adverse contracting officer decisions with contractor attendance mandatory when dispute exceeds \$25,000 or contractor invokes recommendation G6 below (p. 13) | A                           |  |  |                                    |
| 3. Retain multiagency appeals boards, establish minimum personnel and caseload standards, and add subpoena and discovery powers (p. 20)   | A                           |  |  |                                    |
| 4. Establish regional small claims boards for disputes of \$25,000 or less (p. 22)  | B                           |  |  |                                    |
| 5. Empower contracting agencies to decide, settle, and pay all contract claims or disputes (p. 22)  | A                           | DOD                                      | Office of Navy<br>General Counsel                      | John Phelan                        |
| 6. Grant contractors option of direct access to Court of Claims or district courts (p. 23)  | B                           |  |  |                                    |
| 7. Grant both Government and contractors judicial review of adverse decisions by agency appeals boards (with dissent) (p. 25)   | B                           |  |  |                                    |
| 8. Establish uniform, short time limits for judicial review of administrative decisions (p. 27)   | B                           |  |  |                                    |
| 9. Modify existing remand practice to allow reviewing court the option to make findings of fact necessary to final disposition (p. 27)  | B                           |  |  |                                    |
| 10. Expand jurisdictional limit of district courts from \$10,000 to \$100,000 (with dissent) (p. 28)  | A                           |  |  |                                    |
| 11. Pay interest on administrative and judicial claim awards (p. 29)  | A                           |  |  |                                    |
| 12. Pay court judgments on contract claims from agency appropriations if feasible (p. 29)   | B                           |  |  |                                    |

BEST DOCUMENT AVAILABLE

Policy action				Implementation action					
Proposal submitted to executive branch	Coordination with agency heads completed	Recommendation accepted (A) modified (M) rejected (R)	Comments	Proposal submitted to executive branch	Type of action	Coordination with agency heads completed	Industry coordination completed	Statutory or regulatory requirement effected	Comments
-----Actual or (anticipated) date-----				-----Actual or (anticipated) date-----					

(Jan. 1974)

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<u>Recommendation (note a)</u>	<u>Category (note b)</u>	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
PART G--LEGAL AND ADMINISTRATIVE REMEDIES: (Continued)				
Disputes related to award of contracts:				
13. Promulgate adequate information on contract-award protest procedures. (p. 38)	A			
14. Continue to use GAO as an award protest-resolving forum (with dissent) (p. 40)	A			
15. Establish more expeditious and mandatory time requirements for processing protests through GAO (p. 42)	A			
16. Require high-level management review of any decision to award contract while protest is pending with GAO (p. 44)	A	AEC	Division of contracts	T. J. Davin
17. Have GAO continue to recommend terminations for Government convenience of improperly awarded contracts (p. 45)	A			
18. Improve contracting agency debriefing procedures (p. 48)	A			
19. Establish a preaward protest procedure in all contracting agencies (p. 48)	A			
20. Have GAO periodically review agency award protest procedures and practices (p. 49)	A			
Liquitable and special management powers under Public Law 85-804:				
21. Make procurement authority permanent, not limited to periods of national emergency with dissent (p. 55)	A			
22. Extend law to all contracting agencies under regulations developed by OFPP and prescribed by the President (with dissent) (p. 57)	A	AEC	Office of general counsel	H. B. Ragan
23. Incorporate law into primary procurement statute (with dissent) (p. 59)	A			
24. Revise law to require report to Congress before obligating Government for more than \$1 million (p. 59)	B			

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Actual or (anticipated) date				Actual or (anticipated) date					

Nov. 1973

Nov. 1973

(Jan. 1974)

(Jan. 1974)

<u>Recommendation (note a)</u>	<u>Category (note b)</u>	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
<b>PART H--SELECTED ISSUES OF LIABILITY--GOVERNMENT PROPERTY AND CATASTROPHIC ACCIDENTS:</b>				
Self-insurance of Government property:				
1. Make Government act generally as a self-insurer for Government property loss or damage resulting from defects in finally accepted contractor-supplied items (p. 93)	A	DOD	ASPR committee	Gordon J. Keefe
2. Apply the same policy in recommendation H1 to subcontractors (p. 97)	A			
3. Limit rights of third-party transferee of Government property for loss or damage from defects in property to rights granted to Government under original procurement contract (p. 97)	A			
Catastrophic accidents:				
4. Establish by law prompt and adequate compensation to victims of catastrophic accidents under Government-connected programs (p. 101)	B	AEC	Office of General Counsel	H. B. Ragan
5. Provide by law Government indemnification of contractors for liability in excess of available insurance resulting from catastrophic accidents under Government-connected programs (p. 101)	B			
<b>PART I--PATENTS, TECHNICAL DATA, AND COPYRIGHTS:</b>				
Patents:				
1. Promptly and uniformly implement revised Presidential statement of Government patent policy (p. 112)	A	NSF/OST	Executive Subcommittee of Committee on Government patent policy	J. Lasken
2. Enact legislation to clarify authority of all agencies to issue exclusive licenses under patents held by them (p. 114)	B			
3. Supplement Presidential policy by adopting uniform procedures for exercising rights retained by the Government under the policy (p. 114)	A			
4. Amend statute to make authorization and consent automatic except when expressly withheld or withdrawn by agency on a specific patent (p. 123)	B	NSF/OST	Executive Subcommittee of Committee on Government patent policy	J. Tresansky
5. Amend agency regulations and clauses to provide that warranties against patent infringement be specified rather than implied in contracts (p. 123)	B			
6. Authorize agencies to settle patent infringement claims with available appropriations before litigation (p. 124)	A	NSF/OST	Executive Subcommittee of Committee on Government patent policy	J. Tresansky
7. Grant agencies the statutory authority to acquire patent applications, and licenses or other related rights (p. 124)	A			
8. Give Federal district courts concurrent jurisdiction with Court of Claims for patent suits within the statutory jurisdictional dollar limit (p. 124)	B			
Technical data:				
9. Amend or repeal statutes limiting agency flexibility for rights in technical data (p. 129)	B	NSF/OST	Executive Subcommittee of Committee on Government patent policy	M. Postman
10. Develop and evaluate through OFPP and Federal Council for Science and Technology the implementation of a Government policy on rights in technical data supplied under Government contracts, including the relationship of prime contractor and subcontractor rights (p. 129)	A			
11. Authorize agencies to acquire rights or interest in technical data and information (p. 129)	A			
12. Develop and evaluate through OFPP and Federal Council for Science and Technology the implementation of a Government-wide policy on treatment of technical data submitted with proposals or other related documents (p. 130)	A			
13. Establish a remedy for Government misuse of confidential information supplied to it (p. 131)	A			

Policy action				Implementation action					
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Actual or (anticipated) date				Actual or (anticipated) date					
Oct. 1973				Oct. 1973					
(Jan. 1974)								Target for submission of implementation action 90-100 days after submission of policy position.	
Dec. 1973								FPR published Sept. 1973 effective Mar. 1974, ASPR revision under study with completion expected July 1974	
Dec. 1973								Implementation position under study with completion expected Jan. 1974	
Dec. 1973								Task Group proposes rejection of recommendation	
Dec. 1973									
Dec. 1973				Dec. 1973					
Dec. 1973				Dec. 1973					
Dec. 1973								Task Group proposes rejection of recommendation	
Dec. 1973									
Dec. 1973								Implementation actions on I9 and I13 must await outcome of studies on I10 and I12 actions and completion date of these studies has not been established	
Dec. 1973				Dec. 1973					
Dec. 1973									

<u>Recommendation (note a)</u>	<u>Category (note b)</u>	<u>Lead agency responsible</u>	<u>Agency activity responsible</u>	<u>Task group leader</u>
PART I--PATENTS, TECHNICAL DATA, AND COPYRIGHTS: (continued)				
Copyrights:				
14. Amend or repeal statutes limiting flexibility in dealing with publications of works developed under Government contracts (p. 133)	B	NASA	Office of general counsel	L. Rawicz
15. Give all agencies the legislative authority to acquire private copyrights or interests therein (p. 133)	A			
16. Establish an interagency task force under OFPP to develop and evaluate implementation of a Government copyright policy (p. 134)	A			
PART J--OTHER STATUTORY CONSIDERATIONS:				
Consolidated procurement title in U.S. Code:				
1. Establish a program to develop changes needed to organize and consolidate procurement statutes (p. 169)	A	DOJ	Civil Division	Irving Jaffe
Statutes of limited application:				
2. Extend Truth-in-Negotiations Act to all procurement agencies; develop coordinated regulations for interpreting and applying act (p. 187)	A	GSA	Office of procurement management	P. G. Read
3. Extend Renegotiation Act for periods of 5 years (p. 188)	A	Renegotiation Board	Headquarters	Dr. G. Lenches
4. Extend Renegotiation Act to contracts of all Government agencies (p. 188)	A			
5. Raise Renegotiation Act jurisdictional amount to \$2 million for sales to Government and \$50,000 for brokers' fees (with dissent) (p. 189)	A			
6. Expand and clarify profit criteria used by the Renegotiation Board (with dissent) (p. 190)	A			

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