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GENERAL SERVICES ADMINISTRATION

Office of Federal Management Policy
Washington, DC 20405



Op 73-2145

STATINTL November 6, 1973

[REDACTED]
Chief, Procurement Management Staff
Office of Logistics
Central Intelligence Agency
Washington, DC 20505

STATINTLSTAT
Dear [REDACTED]

In memorandums to Heads of Executive Departments and Agencies on December 7, 1972, and again on March 19, 1973, the Office of Management and Budget outlined plans for coordination of executive branch efforts in response to the Commission on Government Procurement (COGP) report. Direction of executive branch efforts on COGP matters is a function which was transferred to the General Services Administration by Executive Order 11717 on May 9, 1973.

In a memorandum from Associate Administrator H. S. Trimmer, Jr., to Agency Heads dated October 12, 1973, a procedure was outlined whereby requests for official agency views would be addressed to Official Agency Representatives for COGP matters rather than to Heads of Agencies. Responses to our request for agency views on the new procedure have been favorable, and it is being used in this instance. It should be noted that the character of views solicited in accordance with the new procedure should not be different than those resulting from a request directed to the Heads of Agencies. "Official" agency views are sought in either case.

The purpose of this memorandum is to request the official views of your agency on a proposed executive branch position developed under this program in respect to COGP Recommendation J-2. This recommendation concerns extension by legislation of the Truth-in-Negotiations Act to all Government procurement agencies not presently covered by the Truth-in-Negotiations Act, P.L. 87-653.

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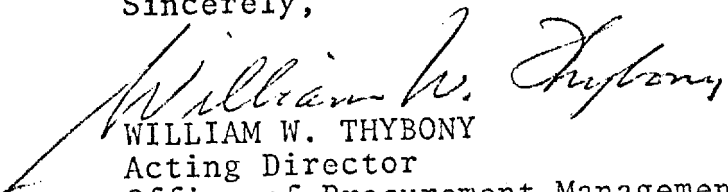
2

Enclosed is the task group report on Recommendation J-2 and a summary analysis prepared by the Office of Procurement Management. The recommendation was discussed with the Planning Staff of the Interagency Procurement Policy Group (re: Assistant to the President for Executive Management's memorandum of June 28, 1973) on October 10, 1973. The result of that discussion was a consensus view that the task group report and analysis constitutes an adequate basis for soliciting official agency comments concerning the proposed course of action. However, the decision to solicit official agency views does not constitute an endorsement of the proposed position/implementation by this agency, agencies represented by the task group or the Planning Staff.

If your agency has a view which you wish to have considered in the processing of a final executive branch position on this recommendation, please advise us of such view on or before the date appearing at the asterisk below. No comment or contact with this office before or on the date shown at the asterisk will be considered to represent general agreement with the position as proposed.

Any questions regarding any aspect of the procedure involved with this action may be discussed with Mr. H. E. Tetirick, Telephone Code 183-6194 or outside 343-6194.

Sincerely,



WILLIAM W. THYBONY

Acting Director
Office of Procurement Management

Enclosures

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January 7, 1974

SUMMARY ANALYSIS

PROPOSED EXECUTIVE BRANCH POSITION
AND IMPLEMENTATION FOR COMMISSION ON GOVERNMENT PROCUREMENT
(COGP) RECOMMENDATION J-2

COGP RECOMMENDATION:

"Extend the Truth in Negotiations Act to all Government procurement agencies and develop coordinated regulations for interpretation and application of its provisions."

PROPOSED EXECUTIVE BRANCH POSITION:

The proposed position and implementation for this recommendation is:

(a) Support the thrust of the recommendation as stated by the COGP.

(b) Take no action to implement the recommendation legislatively at this time pending development of an executive branch position on H.R. 9061.

(c) Inform appropriate Committee Chairmen in the House and Senate and other officials of the basic executive branch support for the recommendation.

DISCUSSION:

In line with the executive branch's desire to vigorously pursue the adoption or other disposition of COGP recommendations, Recommendation J-2 has been selected on the basis that the recommendation is already part of a legislative proposal which, if enacted, would fully satisfy the COGP recommendation.

The following matters have been considered in arriving at the above proposed executive branch position:

(1) COGP Recommendation J-2 was prompted by the fact that the Truth in Negotiations Act (P.L. 87-653), by law, applies only to DOD, NASA, and Coast Guard contracts and subcontracts, since it is covered only

2

in 10 U.S.C. section 2306(f) (part of the Armed Services Procurement Act). P.L. 87-653 does not apply, by law, to contracts entered into and based upon the Federal Property and Administrative Services Act (FPASA).

(2) Although P.L. 87-653 is not statutorily applicable to contracts via the FPAS Act, its provisions have been made applicable to such contracts by administrative action. Application of P.L. 87-653 by legislation to the FPAS Act would, therefore, give the requirements of this law statutory standing, permanence, and greater legal force and effect than is presently afforded by coverage in the Federal Procurement Regulations.

(3) Accomplishment of COGP Recommendation J-2 has been initiated in the form of its inclusion in legislative proposal H.R. 9061, the latter being a proposed procurement statute which consolidates the above-mentioned ASP Act and FPAS Act into one statute.

(4) In a meeting with the Planning Staff of the Interagency Procurement Policy Group on October 10, 1973, it was agreed that (a) the proposed executive branch position was adequate for solicitation of appropriate official agency views, and (b) that it is not planned to solicit private-sector comments because, as indicated above, Truth in Negotiations Act provisions are already in effect administratively in the area affected by the recommendation.