

DOCUMENT RESUME

02633 - [A1812855]

H.R. 7691, a Bill to Distinguish Federal Grant and Cooperative Agreement Relationships from Federal Procurement Relationships and for Other Purposes. June 22, 1977. 3 pp. + enclosure (3 pp.).

Testimony before the House Committee on Government Operations: Legislation and National Security Subcommittee; by James D. Martin, Deputy Director, Human Resources Div.

Issue Area: Federal Procurement of Goods and Services (1900); Intergovernmental Relations and Revenue Sharing: Federal, State, Area-wide, and Local Coordination (402).

Contact: Human Resources Div.

Budget Function: General Government: Executive Direction and Management (802); General Government: Other General Government (806).

Organization Concerned: Commission on Government Procurement.

Congressional Relevance: House Committee on Government Operations: Legislation and National Security Subcommittee.

Authority: H.R. 7691 (95th Cong.). S. 3514 (94th Cong.). H.R. 15499 (94th Cong.).

The purposes of H.R. 7691 were outlined and support recommended. The bill is intended to characterize the relationship between the Federal Government and recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government. This would promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements. It would also establish Government-wide criteria for selection of appropriate legal instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties. It would promote increased discipline in the selection and use of types of contract or agreement and maximize competition. It would require a study of the relationship between the Federal Government and recipients in Federal assistance programs, and the feasibility of developing a system of guidance in carrying out such programs. Enactment of the bill would have the effect of adopting two recommendations of the Commission on Government Procurement supported by the Comptroller General. The first recommendation related to clarifying differences between grant-type relationships and contracts; the second related to standardization of assistance methods and establishing a system of guidance for management of assistance programs. (HTW)

2855
02633

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, DC 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 9:30 a.m. EDT
WEDNESDAY, JUNE 22, 1977

STATEMENT OF
JAMES D. MARTIN, DEPUTY DIRECTOR
HUMAN RESOURCES DIVISION
BEFORE THE
SUBCOMMITTEE ON LEGISLATION
AND NATIONAL SECURITY
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS
ON
H.R. 7691
A BILL TO DISTINGUISH FEDERAL GRANT AND
COOPERATIVE AGREEMENT RELATIONSHIPS
FROM FEDERAL PROCUREMENT RELATIONSHIPS
AND FOR OTHER PURPOSES

Mr. Chairman and Members of the Subcommittee:

I am pleased to present our views on H.R. 7691.

The purposes of the bill are:

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

Enactment of the bill would have the effect of adopting the substance of two recommendations (F-1 and F-2) of the Commission on Government Procurement. As you know, the Comptroller General was a statutory member of the Commission and supported each of the two recommendations. I have attached to my statement a brief description of the Commission's rationale in support of the two recommendations and of their relationship to each other in the context of this bill.

On July 10, 1974, we testified before the Ad Hoc Subcommittee on Federal Procurement and the Subcommittee on Intergovernmental Relations, Senate Committee on Government Operations, regarding the then proposed similar bill S. 3514. On November 25, 1974, we also testified before the House Subcommittee on Legislation and Military Operations, regarding S. 3514 as it passed the Senate on October 9, 1974. On September 13, 1976, we again testified on the then proposed similar bill H.R. 15499 before this Subcommittee. We supported on these occasions, and support now, the adoption of both Commission recommendations, as provided for in H.R. 7691 and for the same basic reasons offered by the Commission.

We believe enactment of H.R. 7691 would be a significant step forward and that the study called for by section 8, addressing the matters set forth in the relevant part of the Commission's report, should set the basis for further significant progress.

We will be happy to answer any questions you may have
Attachment

In connection with recommendation F-1, the Commission found that there is a fundamental conceptual difference between grant-type relationships and contracts, i.e., grant-type relationships are customarily used where Federal assistance of activities having a beneficial effect on public policy is desired while contracts are customarily used for the procurement of goods and services required for the conduct of the Government's business. Despite this fundamental difference, the Commission found confusion among Government agencies and in the non-Federal sector as to when contracts as opposed to grant-type agreements should be used and vice-versa. The Commission also found that in many instances, Government agencies have been forced to use contracts in situations where a grant-type agreement would be more appropriate because they lack necessary statutory authority for the use of grant-type agreements. Finally, the Commission drew a distinction between grant-type activities wherein little Government involvement is required during performance and those which require substantial Federal involvement during performance, recommending that the latter activities be classified as "cooperative agreements" and that instruments creating such agreements detail the nature and extent of Federal involvement contemplated.

In connection with recommendation F-2, the Commission pointed out that much of the attention devoted to the hundreds of assistance programs is concentrated on achieving individual program objectives. It said much less effort has been devoted to generalizing from the methods used in assistance programs. The Commission said that if assistance methods can be standardized and catalogued, it should be possible to take a long step in the direction of consistency and simplicity, and at the same time enhance program effectiveness by establishing a system of guidance for generic aspects of the management of assistance programs.

The Commission said that the system that needs to be developed should cover all types of assistance relationships. It said the need is to: (1) identify the assistance universe comprehensively; (2) examine existing techniques and related considerations; (3) generalize to the extent possible from such data; and (4) explore the possibilities of developing new techniques. Further, it said an analysis and evaluation of assistance techniques should consider, in addition to the usual grant-type transactions, loans, direct payments, and all forms of nonfinancial assistance. The Commission said the study also should consider subsidies which usually are not regarded as "assistance" and that it also may be desirable to consider the applicability of assistance techniques to

"revenue sharing." The Commission said systematic review of all forms of Federal assistance and their operational methods and techniques could assist in decisions on how new forms of assistance should be structured to achieve desired ends.

The Commission recognized in its report that other studies had been attempted but that more was needed.

Although there is some relationship between the two recommendations of the Commission, the basic issues involved are quite separable. Recommendation F-1, dealt with in sections 3 through 7 of the bill, was designed to clearly distinguish between Federal procurement and Federal assistance and to require the use of legal instruments which are consistent with the different Federal/non-Federal relationships involved. Recommendation F-2, dealt with in section 8 of the bill, was designed to gain a better understanding of the alternative means of implementing Federal assistance programs and to assess the feasibility of developing a comprehensive system of guidance to govern the administration of such programs.