

Your inquiry is prompted by the fact that although subsections 111 (a) and (b) (1) of the act state that the Administrator shall provide ADPE for use by Federal agencies, they do not in so many words foreclose other agencies from acting without regard to your actions or regulations in the procurement of ADPE. Also, subsection (g) states that GSA is not to interfere with agency rights to select types and configurations of equipment needed. You point out that since selection of types and configurations of equipment is so closely related and interwoven with the actual acquisition, subsection (g) might be interpreted as implying authorization to agencies to acquire ADPE. Because the plain meaning associated with "types" in the ADPE field is that of a particular brand name, authority to select types might be considered tantamount to purchase of the equipment.

It is your belief, however, that the right, reserved to using agencies under section (g), to select types of equipment needed refers only to agency determinations regarding what equipment is to be purchased and does not encompass the procurement itself on such equipment.

The language of the act and its legislative history make it clear, in our opinion, that it was the legislative intent to place GSA in the position of acting, subject to direction and control by the President and the Bureau of the Budget, as the Government's single purchaser for all general purpose ADPE estimated to cover about 90 percent of the Government's requirements. At the same time it was recognized that full implementation of this single purchaser concept would necessarily require a considerable period of adjustments. The legislative history shows that the delegation authority provided in subsection (b) (2) was to be resorted to during the period the Administrator would be developing the necessary procedures toward assuming his exclusive jurisdiction in the ADPE area. See the lengthy treatment afforded the concepts underlying the act, as set forth in Senate Report No. 938, dated October 22, 1965; House Report No. 802, dated August 17, 1965; and Hearings before a subcommittee of the house Government Operations Committee on H.R. 4845, March 30, 31 and April 7, 1965.

Subsections 111 (a) and (b) (1) quoted above clearly place authority in the Administrator of General Services and direct him to "provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment by Federal Agencies." Any question as to whether such authority and direction were intended to be exclusive is dispelled, it seems to us, by the provisions of subsection (b) (2) and of (e).

Subsection (b) (2) authorizes the Administrator to delegate his functions where he deems it necessary or desirable to do so. Such authority to delegate would not be necessary if the functions involved were not intended to be placed in GSA exclusively.

Subsection (e) eliminates for purposes of section 111 the exemptions granted certain agencies by sections 201(a) (4) and 602(d) of the Property Act with respect to the procurement of personal property generally. When the Property Act was passed in 1949, it was recognized at that time that, due to the peculiar missions of various agencies, complete compliance with uniform procedures might interfere with their operations; therefore certain agencies were granted exemptions in sections 201(a) (4) and 602(d). Subsection 111(e) takes away these exemptions in the administrations of section 111.

We recognize that responsibilities related to determining ADPE requirements, selecting types and configurations and the use to be made of such equipment are divided by a fine line from responsibilities related to actual purchase of the equipment desired. Subsection (g) provides that Administrator of General Services shall not interfere with determinations made by agencies in these areas. But whatever problems may arise between the various agencies and the exercise of GSA's procurement authority, subsection (g) specifically provides for their resolution by the Bureau of the Budget and the President. Again, it hardly seems necessary to spell out a form for settling differences between GSA and the agencies, if GSA's authority were not otherwise intended to be exclusive.

The only evidence which might be interpreted as supporting the independent right of other agencies to procure ADPE, is found in subsection 111(c) and (d) which establish the ADP revolving fund. It could be argued that the authority given to GSA in subsections (a) and (b) (1) is to be invoked only in connection with fund activities, and until there is some affirmative action on the part of GSA to make a fund procurement on behalf of, and at the request of an agency, that agency would be free to continue procuring on its own. We believe, however that this argument is severely weakened by the provision for delegation of author-