

BY THE COMPTROLLER GENERAL

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Report To The Chairman, Subcommittee On Civil Service
And General Services, Committee On Governmental
Affairs, United States Senate
OF THE UNITED STATES

Agencies Should Disclose Consultants' Roles In Preparing Congressionally Mandated Reports

Since congressionally mandated studies are likely to influence the oversight and future direction of Government programs, the Congress needs to be aware of the extent to which outside consultants are used in preparing these reports.

GAO's review of seven agencies found that consulting services were used to meet over 40 percent of their congressionally mandated reporting requirements during fiscal years 1977-79. Consulting services accounted for almost two-thirds of the total costs incurred. Approximately 60 percent of the reports either did not disclose or inadequately disclosed consultants' involvement.

The Office of Management and Budget should revise Circular A-120 to require Federal agencies to fully disclose consulting services used in reports required by law or at the request of congressional committees or subcommittees.



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

B-199839

The Honorable David H. Pryor
Chairman, Subcommittee on Civil
Service and General Services
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This report, presenting the results of our review of selected Federal agencies' use of consulting services to prepare congressionally mandated reports, responds to your December 7, 1979, request and later discussion with your office. In addition to disclosure of consultants' roles in preparing reports, we also reviewed agencies' reasons for using consultants rather than in-house staff.

We found that outside consulting services were used to meet over 40 percent of the agencies' congressionally mandated reporting requirements. Costs for consulting services represented about 66 percent of the total costs incurred in preparing the reports. ^{1/} Agencies generally based their justification for using consulting services on (1) the lack of in-house expertise and (2) limited in-house resources and related time constraints. Two agencies used consulting services on a continuing basis to help prepare recurring reports. This action appears contrary to policy prescribed by the Office of Management and Budget (OMB). Most of the reports we reviewed did not adequately disclose consultants' assistance. Since congressionally mandated reports have the potential to influence the congressional oversight process, we believe that the Congress should be fully apprised of consultants' roles in preparing these reports. We are recommending actions to deal with these matters.

We obtained information on congressionally mandated reporting requirements for fiscal years 1977, 1978, and 1979 from seven agencies: the Environmental Protection

^{1/}Total cost includes contract and in-house costs. Some projects had costs associated with cooperative agreements, research, and grants; however, these costs were not identifiable with specific projects.

Agency (EPA), Department of Housing and Urban Development (HUD), Department of Transportation (DOT), Federal Communications Commission, Federal Trade Commission, National Aeronautics and Space Administration, and the Nuclear Regulatory Commission. At EPA and HUD, Washington, D.C., headquarters, we interviewed program and procurement officials, reviewed policies and procedures for obtaining consulting services, and reviewed contract files. Our work at the other five agencies was limited to gathering and analyzing information.

Congressionally mandated reporting requirements that we reviewed included those prescribed by legislation as well as requests from congressional committees and subcommittees. We did not review requests from individual congressional members.

BACKGROUND

Agencies obtain consulting services through procurement contracts, civil service appointments, and advisory committee membership. OMB Bulletin 78-11 dated May 5, 1978, prescribed policy and guidelines for executive branch agencies on acquiring and managing consulting services during the time frame covered by our review. The bulletin defined consulting services as "those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management." OMB Circular A-120, issued April 14, 1980, supersedes the bulletin and provides more permanent guidelines. While the definition remains the same, the circular expanded the list of examples of services that should be classified as consulting services.

EXTENSIVE USE OF CONSULTING SERVICES

The seven agencies used consulting service contracts in preparing responses to meet over 40 percent of their congressionally mandated reporting requirements. Many of the contracts were for study-type services which the agencies did not consider to be consulting services. However, in our view, the services provided were within the scope of OMB's definition.

During fiscal years 1977-79, the seven agencies paid approximately \$17 million to outside consultants in meeting congressionally mandated reporting requirements. Consulting services accounted for almost two-thirds of the total resources used to meet these agencies' reporting requirements. EPA, HUD, and DOT used outside consultants extensively.

Consultant Assistance Used For
Congressionally Mandated Reporting Requirements
During Fiscal Years 1977-79 (note a)

<u>Agency</u>	<u>Total requirements</u>		<u>Requirements involving consultant assistance</u>	
	<u>Number</u>	<u>Amount</u> <u>(000s omitted)</u>	<u>Number</u>	<u>Amount</u> <u>(000s omitted)</u>
EPA	26	\$10,550	17 (65%)	\$8,313 (79%)
DOT	24	9,036	12 (50%)	5,302 (59%)
National Aero- nautics and Space Administration	7	505	2 (28%)	175 (35%)
HUD	17	3,764	3 (18%)	2,759 (73%)
Nuclear Regulatory Commission	6	1,091	1 (17%)	27 (2%)
Federal Communi- cations Commission	2	92	-	-
Total	<u>82</u>	<u>\$25,038</u>	<u>35 (43%)</u>	<u>\$16,576 (66%)</u>

a/Data based upon information provided by the agencies at our request for those mandated studies costing more than \$10,000. Federal Trade Commission officials told us that minimal consulting services were used, but they were unable to identify related costs.

Definition continues to be a problem

In two earlier reports on consulting services, ^{1/} we found that agencies were experiencing considerable difficulty in using OMB's consulting services definition. For example, our March 1980 study reported that officials at several agencies interpreted the definition differently. Interpretation of the definition remains a problem at EPA and HUD.

^{1/}"Controls Over Consulting Service Contracts at Federal Agencies Need Tightening", PSAD-80-35, March 20, 1980; and "Government Earns Low Marks on Proper Use of Consultants," FPCD 80-48, June 5, 1980.

EPA did not classify any of the 24 contracts (17 requirements) discussed earlier as consulting service contracts. Furthermore, of four contracts (three requirements) which we show as involving consulting services, HUD considered only one to meet the OMB definition.

Included in the examples of consulting services listed in OMB bulletin 78-11 are (1) an analysis of a program's impact and (2) policy and program analysis evaluation and advice. Most of the contracts we classified as consulting services at EPA and HUD were of these types. For example, at HUD, consultants:

- Provided performance evaluations of the Community Development Block Grant Program to assist cities in improving their operations.
- Analyzed national urban growth and development trends, the problems they cause, and the policy alternatives identified by the Administration to deal with these problems.

At EPA, consultants:

- Analyzed existing research efforts on noise abatement control and current and projected regulatory activities; and evaluated EPA assistance to State and local governments, considering their current technical and budgeting capability for noise abatement and control.
- Evaluated public policy options which could modify design and use of discarded material for reducing waste.
- Examined the efficiency and need for the industrial cost recovery provisions of the Federal Water Pollution Control Act.

EPA and HUD officials generally did not consider contract assistance for these studies to be consulting services. In some cases officials lacked an awareness of OMB's definition; in others, they had adopted a more narrow definition. For example, an EPA program official explained that EPA normally classifies arrangements as consulting services only when it uses appointed consultants or when contract services provide advice for internal management problems.

EPA procurement officials, who monitor the classification of service contracts made by program officials, told us they were aware that OMB's definition includes program analysis. They explained that they prefer to define consulting services as providing advice only and that consulting services resulting in deliverable products, such as reports, are excluded from EPA's definition. The officials told us that this more specific definition avoided problems in interpreting OMB's definition and provided better control over the classification of contracts.

HUD officials told us that OMB's definition is not clear and that there are problems in categorizing study-type contracts that are not for purely advisory services. As pointed out in our March 1980 study, HUD was experiencing difficulty in using the Federal Procurement Data System's coding for identifying consulting service contracts.

CONSULTANTS USED TO HELP
PREPARE RECURRING REPORTS

HUD and EPA used outside consultants on a continuing basis to help prepare recurring reports. This action appeared to contradict the basic policy in Bulletin 78-11. Agencies should be well aware of their recurring reporting requirements and therefore able to plan for and, when economically feasible, develop the in-house capability to meet such needs.

Bulletin 78-11 stated that consulting services would normally be obtained only on an intermittent or temporary basis and that repeated or extended arrangements were not to be entered into except under extraordinary circumstances. For five requirements, three at HUD and two at EPA, the agencies repeatedly used consulting service contracts for assistance in responding to mandated requirements. At HUD, consultants helped to develop recurring reports for the

--Community Development Block Grant Program in 1977 and 1978;

--Urban Homesteading Demonstration Program in 1977, 1978, and 1979; and

--President's National Urban Policy in 1978 and 1980.

At EPA, assistance was used on a recurring basis for reports on (1) the 1978 and 1980 costs of carrying out regulations

resulting from the Clean Air Amendments of 1970 (Public Law 91-604) and the Federal Water Pollution Control Act Amendment of 1972 (Public Law 92-500) and (2) the 1976 and 1978 need surveys for the construction of publicly owned wastewater treatment facilities. The latter surveys included evaluations of existing models, technological alternatives, and recommendations for legislation. Consulting services for these recurring reports cost EPA and HUD approximately \$5 million and \$2.8 million, respectively. The specific tasks performed by consultants consisted of collecting and analyzing program data and assisting agency staff in developing the final reports.

Requirements for these recurring reports are unlimited and will continue unless the legislation is changed.

WHY DID AGENCIES USE CONSULTANTS?

Limited resources together with tight time frames for meeting requirements was the justification cited most frequently by agency officials for using consultants rather than in-house staff. The lack of expertise was also used to justify the need for consultants:

	<u>Limited resources and time constraints</u>	<u>Lack of special expertise</u>	<u>Total requirements</u>
EPA	10	7	17
DOT	7	5	12
HUD	<u>3</u>	<u>-</u>	<u>3</u>
Total	<u>20</u>	<u>12</u>	<u>32</u>

We could not determine conclusively whether urgency was a valid factor in justifying the use of consulting services. EPA, DOT, and HUD cited urgency as part of their justification for using consultants to meet 13 of their mandated requirements. However, the validity of the urgency justification for two recurring reporting requirements, one each at HUD and EPA, seems questionable. In these cases the reports were not the first reports under these requirements and were issued 5 and 6 years, respectively, after the requirements were established.

Management controls not applied

Since EPA and HUD did not consider most of the contracts for preparing congressionally mandated reports as consulting service arrangements, they did not apply the controls over justification and approval as specified in OMB Bulletin 78-11. Furthermore, in some cases, program managers were not even aware of the bulletin.

The bulletin requires agencies to establish levels of authority to approve the use of consulting services according to its policy and guidelines. It basically prohibits the use of consultants (1) to perform policy decisionmaking or managerial work, (2) to specifically aid in influencing and enacting legislation, (3) for extended periods of time, or (4) to circumvent personnel ceilings.

EPA's and HUD's general procurement procedures include many of the management controls which OMB has set out in the bulletin. For example, the general procurement procedures at these agencies include requirements for written justification, specific work statements, maximum competition, disclosures to avoid conflict of interest, and monitoring of performance. However, the procedures do not contain controls to assure that agencies comply with the bulletin's basic policy for using consulting services. Several EPA program officials were not aware that OMB had specific guidelines for using outside consultants. They told us that they followed normal contracting guidelines and were unaware of the bulletin's provisions.

Limited resources encourage
the use of consultants

Frequent use of the limited resources and time constraint justification for using consultants raises serious questions about whether agencies are circumventing OMB imposed personnel ceilings. Bulletin 78-11 specifically prohibits the use of consultants to circumvent personnel ceilings, pay limitations, or use of competitive employment procedures. We did not examine in detail the validity of justifications supporting the use of consultants. However, EPA officials told us that it had been relatively easy to obtain contract funds for consulting services as compared with obtaining additional in-house staff to perform needed work.

Several EPA officials told us that they believed increasing legislative mandates and personnel ceilings actually encouraged the use of consultants. For example, at EPA several program officials told us that their staff is used primarily to monitor projects being performed by consultants. One official said he generally requests fewer staff than necessary to meet resource requirements but then supplements his needs by using contract funds that are more easily obtained.

INADEQUATE DISCLOSURE OF CONSULTANTS' ROLE

In approximately 60 percent of the reports prepared by EPA, DOT, and HUD with consultants' assistance, there was either inadequate or no disclosure of this assistance in the final reports. We reviewed 41 reports prepared with consultants' assistance. In our opinion, the consultant's role was not adequately disclosed in 13 of these reports, and 13 contained no disclosure at all:

	<u>Number of reports reviewed</u>	<u>Role not adequately disclosed</u>	<u>No disclosure</u>
EPA	19	8	5
HUD	5	1	1
DOT	<u>17</u>	<u>4</u>	<u>7</u>
Total	<u>a/ 41</u>	<u>13</u>	<u>13</u>

a/The 32 requirements resulted in 41 reports.

The types of disclosure ranged from full descriptions of the consultant's work and the work's relationship to the overall study to simply citing the consultant's name in the acknowledgement, in an appendix reference, or in a footnote, with little or no information on the consultant's role. Therefore, when only the consultant's name was cited, readers had no way of assessing the importance of the consultant's assistance in preparing the reports.

We also found three reports, two at EPA and one at HUD, which stated that the views, statements, and conclusions were not necessarily those of the agencies responding to the congressional mandates. In our view, the value of reports containing this type of qualification seems questionable, particularly since the legislative mandates for the reports did not require independent studies by outside consultants.

Federal agencies are not required to disclose consulting services used in preparing reports to the Congress. As stated earlier, OMB Circular A-120 now provides more permanent guidelines to Federal agencies on using consulting services. In a memorandum dated July 2, 1980, to agency heads, OMB required the disclosure of contract information on all consulting service contractor reports containing recommendations to agencies. However, neither the circular nor the OMB memorandum addresses the disclosure of consulting services agencies used in preparing reports to the Congress.

IMPORTANCE OF CONSULTANTS' ROLES

Consultants performed work which contributed significantly to many EPA and some HUD reports. On the basis of a review of EPA and HUD contract files and discussions with agency officials, it appears that consultants contributed significantly to 13 of 19 (68%) EPA reports and 4 of 5 (80%) HUD reports.

The contract files showed that consultants performed a variety of tasks, including technical, economic, scientific and regulatory analyses; program effectiveness evaluations; and program alternatives assessments. In assessing the importance of consultant's work in preparing final reports, we considered the (1) relative importance of tasks performed by consultants to those performed in-house, (2) relative cost of contracts to total project cost, and (3) degree of reliance that agency officials placed on results of consultants' tasks.

We considered consulting services to be significant in preparing the final report if the consultant had primary responsibility for analyzing baseline data used in the report and/or if the consultant worked jointly with the agency in preparing the final report. Examples of consulting services considered significant include the following:

- In the HUD report on the Urban Homesteading Demonstration Program, consulting services were used to collect and analyze baseline data and to assist the agency in preparing the final report. A single contract was awarded to provide this assistance in preparing the 1977, 1978, and 1979 annual reports. A comparison of in-house and consulting service costs showed that approximately \$27,000 was spent for in-house resources and \$2.1 million for consulting services.

--In the EPA report on the Industrial Cost Recovery Program, consulting services were used to develop the study's methodology, compile the needed information, analyze the data, and prepare the report. Additionally, the consultant prepared material to support public hearings and participated in the hearings to obtain public input for the study. The consulting services cost approximately \$500,000, and EPA used an estimated 30 staff-days of in-house resources primarily to monitor and review the consultant's work.

In studies where consulting services were used for basic data gathering while the agency maintained primary responsibility for data analysis and sole responsibility for preparing the final report, we concluded that consulting services did not significantly influence the basic message of final reports.

CONCLUSIONS

The use of consultants in preparing congressionally mandated reports is justified in instances calling for unique skills or expertise required on a temporary basis. However, EPA's and HUD's repeated use of consultants in responding to recurring requirements seems improper. These two agencies need to develop an in-house capability, when economically feasible, to meet recurring requirements. Also, action is needed to assure that EPA and HUD officials adhere to OMB's definition of consulting services and otherwise follow the requirements prescribed by OMB Circular A-120. Until this is accomplished, there is little assurance that consulting services will be used properly.

Consultants' roles should be completely disclosed in reports mandated by the Congress because these reports have the potential to influence the congressional oversight process and future direction of Government programs. It is important that the Congress be fully informed on how and by whom these reports were developed. The Congress should have clearer and more comprehensive information concerning the importance of the roles played by agencies and consultants in responding to reporting requirements.

RECOMMENDATIONS

We recommend that the Administrator of EPA and the Secretary of HUD:

- Develop in-house capabilities, when economically feasible, to respond to long-term recurring congressional reporting requirements.
- Disseminate information to program and procurement officials emphasizing the basic policy and definition of consulting services in OMB Circular A-120 and the importance of complying with its provisions.

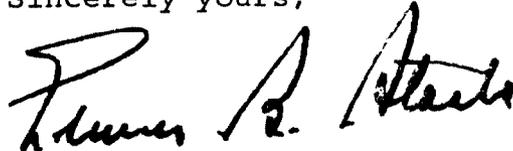
We recommend that the Director, OMB, revise Circular A-120 to require Federal agencies to fully disclose consulting services used in preparing congressionally mandated reports. Such disclosure should briefly describe tasks performed and assess their significance in completing the final product.

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At the request of your office, we did not obtain agency comments on this report.

As arranged with your office, we are sending copies of this report to the Director of OMB, Administrator of EPA, the Secretaries of HUD and DOT, and other interested parties.

Sincerely yours,



Comptroller General
of the United States

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