

March 2008

FEDERAL CONTRACTING

Congressional Action Needed to Address Long-standing Problems with Reporting of Advisory and Assistance Services





Highlights of [GAO-08-319](#), a report to congressional committees

Why GAO Did This Study

Since 1994, the Office of Management and Budget (OMB) has been required by law to collect and report obligations for advisory and assistance services (A&AS) in the President's budget. The initial intent for this requirement is not clear, however. The statutory definition of A&AS covers three broad categories of management and professional support services. For many years, GAO and others have reported on inaccuracies in agencies' reporting of A&AS obligations. This report follows up on GAO's past work, pursuant to the fiscal year 2007 Defense Authorization Act. GAO assessed (1) whether reported A&AS obligations are accurate or used for management purposes and (2) the extent to which A&AS contracts are used for recurring services and for longer than 5 years and the contract types and vehicles used. GAO analyzed legislative history and reviewed 334 randomly selected contract files across 10 agencies, the results of which are generalizable to locations visited.

What GAO Recommends

To address long-standing problems with reporting of A&AS obligations, Congress should consider re-evaluating the need for separate budget reporting of A&AS. If more insight is desired, Congress should consider clarifying the statutory definition and requiring OMB's Office of Federal Procurement Policy to reinstate data collection for A&AS in the Federal Procurement Data System-Next Generation. Several agencies in GAO's review offered technical comments, which GAO incorporated as appropriate.

To view the full product, including the scope and methodology, click on [GAO-08-319](#). For more information, contact John Hutton at (202) 512-4841 or huttonj@gao.gov.

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What GAO Found

Agencies' reported A&AS obligations are inaccurate to the point of being meaningless and are not used for management purposes. GAO found a range of factors that contribute to significant inaccuracies in these data.

Factors Contributing to Inaccuracies in Agencies' Reported A&AS Obligations

Different interpretations of broad A&AS definition	Inconsistent reporting methods	Insufficient procurement and budget system integration
<p>Agency procurement and budget officials exercise significant judgment when deciding whether to code contracts as A&AS for budget reporting.</p> <ul style="list-style-type: none"> Varying DOD and civilian exclusions to A&AS reporting further complicate agencies' ability to make accurate interpretations. 	<p>Agencies' approaches for reporting obligations to OMB have little consistency. For example, agencies</p> <ul style="list-style-type: none"> partially reported obligations under specific A&AS contracts, misreported agency-wide obligations using prior year data, and failed to separate A&AS obligations from overall agency total contract costs. 	<p>Agency information systems used to manage procurement and budget functions are not sufficiently integrated to identify contracts for A&AS.</p>

Source: GAO.

Almost 20 percent of the 334 contract actions GAO reviewed were erroneously identified as A&AS, including services such as fitness center maintenance and telecommunications cabling installation. Agency officials frequently cited the broad nature of the A&AS definition as a problem. Agencies GAO reviewed generally encountered challenges in tying reported A&AS obligations to their corresponding contracts because of the lack of integration of procurement and budget data systems. Agency and OMB officials unanimously told GAO they do not use reported A&AS obligations for management or other purposes. Acquisition officials said they oversee their A&AS contracts, as they do their other professional services contracts, with established contract management procedures. Reflecting the lack of a clear distinction between A&AS and general professional services contracts, DOD retracted its A&AS directive and replaced it with general service contracting guidance in 2004. Even as far back as 1996, a code to specifically designate A&AS contracts was removed from the Federal Procurement Data System, the government's procurement information system.

Agencies frequently awarded contracts for A&AS on a recurring basis and to the same contractor. Overall 63 percent of the A&AS contract actions were issued on other than a sole-source basis. Most task order contracts reviewed met the A&AS statutory period of performance limit of 5 years; but 2 exceeded and 10 had the potential (if options were exercised) to exceed this limit. Agencies used various contract types and vehicles to procure A&AS. Almost half of the actions GAO reviewed were time-and-materials, and over 40 percent were under interagency vehicles, primarily orders under the General Services Administration's schedule contracts.

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Abbreviations

A&AS	advisory and assistance services
DOD	Department of Defense
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
FPDS-NG	Federal Procurement Data System-Next Generation
GAO	Government Accountability Office
GSA	General Services Administration
HUD	Housing and Urban Development
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
R&D	research and development
VA	Veterans Affairs

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United States Government Accountability Office
Washington, DC 20548

March 31, 2008

Congressional Committees

Each year, the federal government spends billions of dollars to procure goods and services from private contractors, with a growing proportion related to services. Advisory and assistance services (A&AS), previously referred to as consultant services are contracted services intended to be used by federal agencies to acquire three broad areas of services: management and professional support; studies, analyses, and evaluations; and engineering and technical services. Since 1994, the Office of Management and Budget (OMB) has been required by law to collect and report obligations for A&AS in the President's budget.¹ However, Congress's initial intent behind this requirement is not clear.

Our past work and that of other organizations have highlighted long-standing challenges agencies face in identifying and reporting their A&AS spending. For example, a 1988 OMB report on the government's use of consulting services concluded that the definitions were overly broad and complex and subject to varying interpretations. In 1990, we reported that agencies had no common understanding of how to interpret the definition of what is now called A&AS. In 1996, the President's Council on Integrity and Efficiency reported that, governmentwide, agency inspectors general found inaccuracies in reporting on their A&AS contracts because of unclear guidance on what constituted such services and how they should be reported. Similarly, in 2001, we reported that the Department of Defense's (DOD) persistent deficiencies in accurately reporting its obligations under these contracts were due in part to unclear definitions, lack of consistency in identifying and reporting, and inadequate accounting systems used to track such expenditures.²

¹ Pub. L. No. 103-355 § 2454.

² GAO, *Contract Management: No DOD Proposal to Improve Contract Service Costs Reporting*, GAO-01-295 (Washington, D.C.: Feb. 16, 2001).

The ordering period for A&AS task order contracts³ has been limited to 5 years, but in the John Warner National Defense Authorization Act for Fiscal Year 2007,⁴ Congress authorized agencies to extend this period up to 10 years if certain determinations were made. Before agencies could take advantage of the 10-year ordering period authority, DOD and the Office of Federal Procurement Policy (OFPP) had to submit a report to certain congressional committees by April 1, 2007. On March 21, 2008, the Deputy Under Secretary of Defense, Acquisition and Technology, submitted letters to Congress stating that the department was unable to comply with the required submission date for the report because the federal procurement data system does not identify A&AS, requiring a slow and cumbersome manual data call across DOD. The letters note that the lack of the waiver authority has had no impact on DOD's acquisition of services. The Director, Defense Procurement, Acquisition Policy, and Strategic Sourcing has also notified DOD components that, because the required submission date for the report to Congress was not met, no waivers may be issued to extend task order contracts for A&AS. Similarly, on March 26, 2008, the Administrator of OFPP submitted letters to Congress stating that it was unable to comply with the required submission date for the report because it could not identify the requested information on A&AS contracts from the federal procurement data system and the federal budget data system. OFPP added that it was unable to collect the requested information from surveying civilian agencies. OFPP notified agencies that because the information was not available to report to Congress, they cannot issue waivers to extend task order contracts for A&AS. The Act also directed us to report on the federal government's use of contracts for A&AS.⁵ We provided briefings to congressional committees on our work to meet that mandate in the fall of 2007 and agreed to issue a follow-on report on agencies' reporting and use of A&AS. For DOD and selected civilian

³ A task order contract is a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

⁴ Pub. L. No. 109-364, § 834 (2006).

⁵ The Act directed us to report to Congress on several aspects of A&AS, including the extent to which agencies require A&AS for periods greater than 5 years; the extent to which A&AS is provided by the same contractors under recurring contracts; the rationale for contracting for A&AS that is needed on a continuous basis, rather than performing the services with government employees; the contract types and oversight mechanisms used; and actions taken by the government to prevent organizational conflicts of interest and improper personal services contracts for A&AS. We met the requirements of this mandate with our briefings in the fall of 2007.

agencies, we (1) assessed whether reported obligations for A&AS were accurate or used for management purposes and (2) identified the extent to which they are used for recurring services and periods greater than 5 years as well as the contract types and vehicles used.

To perform our work, we reviewed the legislative history of contracted consulting services and A&AS, analyzed relevant public laws, pertinent sections of the Federal Acquisition Regulation (FAR), and federal A&AS budget reporting requirements in OMB's *Circular A-11, Preparation, Submission, and Execution of the Budget*. We also examined our related prior work, inspectors general audit reports, and reports from other organizations. Because contracts for A&AS are not identified as such in the Federal Procurement Data System-Next Generation (FPDS-NG), the federal government's procurement information system, we queried OMB's MAX A-11 budget data system to determine the scope of agencies for our review. We identified the seven federal departments with the largest average reported A&AS obligations for fiscal years 2002 to 2006 (the departments of Defense, Energy, Health and Human Services, Homeland Security, Housing and Urban Development (HUD), Treasury, and Veterans Affairs (VA)). Based on our analysis of the reported obligations and discussions with agency officials, we narrowed our scope to the departments that could provide us with a list of the A&AS contracts that comprised their reported obligations in fiscal year 2006. HUD and VA were unable to do so, so we excluded them from our detailed contract file review. Next, we narrowed our scope to the major agencies or components (within the 5 departments) that had the largest reported overall obligations on service contracts, based on FPDS-NG data, and that could provide us with a list of A&AS contracts for fiscal year 2006. This step led to the Department of the Army's dropping out of our file review sample, as it could not identify A&AS contracts. In all, we conducted in-depth reviews of 334 randomly selected contract actions out of the 6,373 contracts that the 10 major agencies within our review identified as A&AS.⁶ The results of our agency-specific contract file reviews are generalizable to the particular agency location where we reviewed contract files. Table 1 shows the agencies included in our review.

⁶ The Department of Health and Human Services' National Institutes of Health identified 4,319 A&AS contract actions of the 6,373 from which our randomly selected contract files were drawn.

Table 1: Civilian and Defense Agencies We Reviewed

Civilian agencies	Defense agencies
Department of Energy, National Nuclear Security Administration, Albuquerque, New Mexico, and Washington, D.C.	Department of Air Force, Headquarters Air Force, Bolling Air Force Base, Washington, D.C.
Department of Health and Human Services, National Institutes of Health, Bethesda, Maryland	Department of Air Force Aeronautical Systems Center, Wright-Patterson Air Force Base, Dayton, Ohio
Department of Homeland Security, Customs and Border Protection, Indianapolis, Indiana, and Washington, D.C.	Department of Navy, Naval Air Systems Command, Patuxent River, Maryland
Department of Homeland Security, Immigration and Customs Enforcement, Washington, D.C.	Department of Navy, Naval Sea Systems Command, Washington Navy Yard, Washington, D.C.
Department of the Treasury, Internal Revenue Service, Washington, D.C.	Missile Defense Agency, Falls Church, Virginia
Department of Housing and Urban Development, Washington, D.C. ^a	Department of Army, Deputy Chief of Staff, Washington, D.C. ^a
Department of Veterans Affairs, Washington, D.C. ^a	

Source: GAO.

^aAgency visited but excluded from our contract file review because of inability to provide a contract list specific to A&AS contract actions with fiscal year 2006 obligations.

We also interviewed agency officials on their management policies for and use of A&AS and obtained agency-specific service contracting guidance from agency procurement, program, and budget officials. We conducted this performance audit from January 2007 to February 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. More information on our scope and methodology is contained in appendix I.

Results in Brief

Agencies' reported A&AS obligations are inaccurate to the point of being meaningless and are not used for management purposes. Reported department-level A&AS obligations for the agencies we reviewed totaled about \$14 billion for fiscal year 2006, but several factors contribute to significant data inaccuracies. First, different interpretations of the broad A&AS definition contribute to errors in identifying contracts. Almost 20 percent of the 334 contract actions we reviewed had been erroneously identified as A&AS, including such things as fitness center maintenance and cabling installation. Second, agencies' approaches for reporting A&AS

obligations to OMB are inconsistent. Some agencies went through a manually intensive process to collect the data reported to OMB. Other agencies could not explain to us where their reported numbers came from. Third, agency procurement and budget systems generally are not sufficiently integrated to accurately account for A&AS contracts, which posed challenges for agencies in tying reported A&AS obligations to their corresponding contracts. Agency and OMB officials unanimously told us they do not use their reported A&AS obligations for management or any other purpose. Acquisition officials said they maintain oversight of their A&AS contracts, as they do for their other professional services contracts, through established contract management procedures and practices. In fact, in 1993 OMB rescinded its directive on A&AS and replaced it with overall guidance on service contracting.

Agencies frequently awarded contract actions (defined for purposes of this report as an activity that resulted in the award of a stand-alone contract, an order under a General Services Administration (GSA) schedule contract, or a task order issued under an indefinite-delivery indefinite-quantity contract) for A&AS on a recurring basis and to the same contractor. About 70 percent of the A&AS contract actions we reviewed across the 10 agencies were for recurring requirements (that is, the same services were re-procured after the initial contract or order ended). Further, over 70 percent of these recurring requirements went to the same contractor, about half on a sole-source basis. Most task order contracts we reviewed met the 5-year statutory period of performance limit, but 2 exceeded and 10 had the potential (if all options had been exercised) to exceed the statutory limit. The contracting mechanisms agencies used for their A&AS procurements varied: the contract type for about half was time-and-materials and interagency vehicles, primarily orders under the General Services Administration's schedule contracts, accounted for over 40 percent.

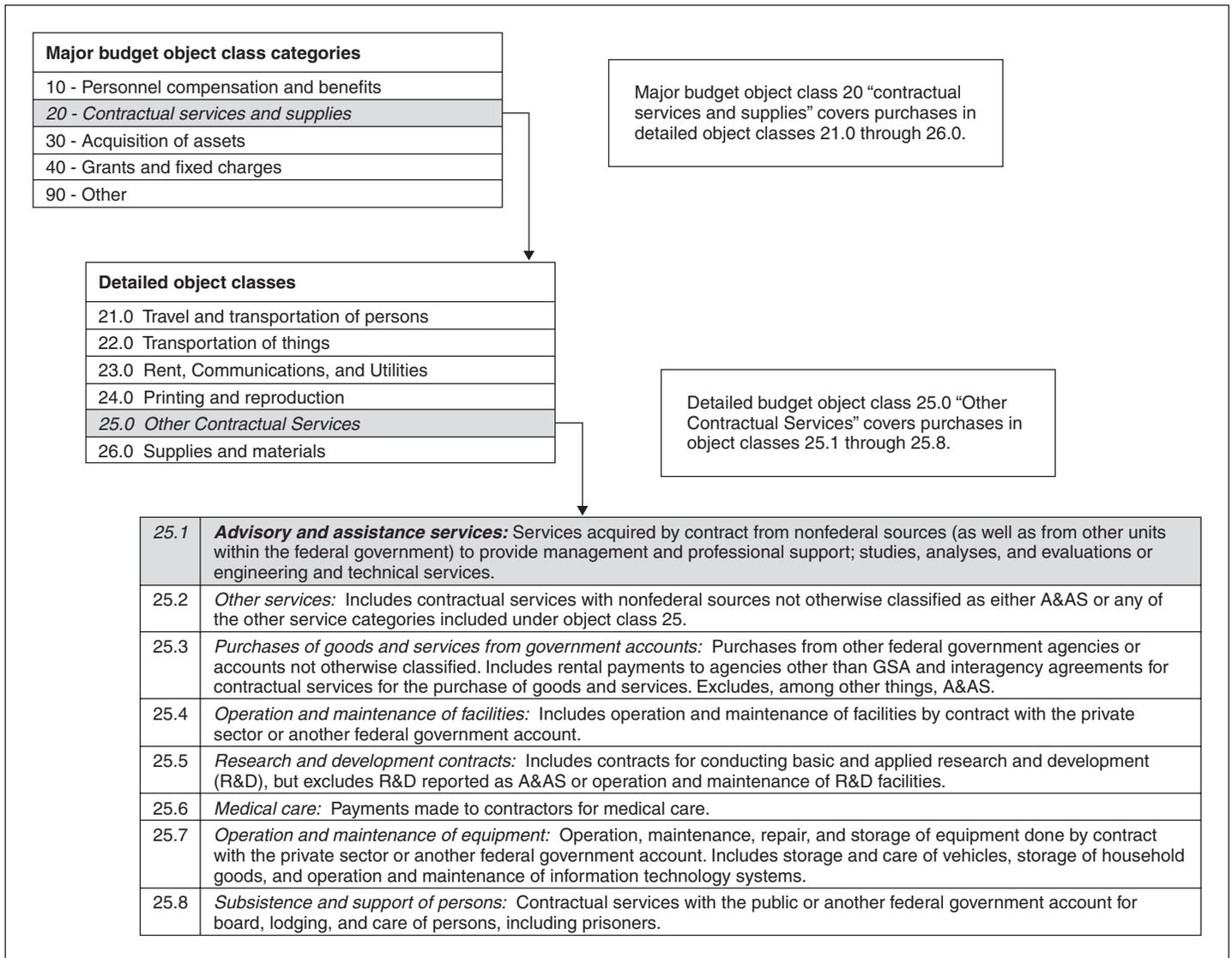
To address the long-standing problems agencies face in reporting A&AS obligations, Congress should consider re-evaluating the need for agencies to report A&AS funding separately to OMB, recognizing that A&AS contracts are not managed any differently than other professional management support contracts. If insights into A&AS contracts are desired, Congress should consider clarifying the statutory definition of A&AS to more explicitly address current congressional concerns related to these types of contracts and require the Administrator of OFPP to reinstate data collection on contracts for A&AS in FPDS-NG using the revised definition. We received written comments on a draft of this report from the Department of the Treasury, which agreed with our findings.

Treasury's letter is reprinted in appendix IV. In e-mails, the departments of Homeland Security and Veterans Affairs stated that they also agreed. We received technical comments from the departments of Health and Human Services, VA, and OFPP, which we incorporated as appropriate. The Departments of Defense, Energy, and HUD had no comment.

Background

Agencies report their obligations for goods and services annually to OMB using a format called a budget object class structure, specified in the OMB *Circular A-11*. The *Circular* provides five major budget object class categories used to classify obligations by the items or services purchased; each of the five is divided into smaller detailed classes. As shown in figure 1, A&AS are a subset of the "contractual services and supplies" category, one of the five major categories.

Figure 1: Depiction of Where A&AS Falls in OMB’s Budget Structure



Source: GAO analysis of OMB Circular A-11.

We have reported that, generally, the budget object classification system, which agencies use to report annual spending to OMB, is not a reliable mechanism for assessing the performance and cost of government

operations.⁷ Our concerns included agency discretion regarding how spending is coded, which may not promote an accurate, complete, or consistent portrayal of A&AS activities. We also noted agencies' long-standing problem with classifying activities into the correct budget object class given that many activities could conceivably fit into more than one category.

Key Events Regarding A&AS

Over the past several decades, Congress and agencies have taken certain actions regarding the use of A&AS. Key events included the Federal Acquisition Streamlining Act of 1994, which added new sections to the U.S. Code—one for DOD and an identical one applicable to civilian agencies and departments—authorizing the use of task order contracts to procure A&AS.⁸ These provisions limit the ordering period of A&AS task order contracts to periods of no more than 5 years, but authorize the use of a 6-month sole-source extension in certain circumstances.⁹ Both provisions also indicate a preference for multiple awards.¹⁰ Also, in 1995, the FAR was amended to include the broad statutory definition of A&AS and to include certain examples of A&AS for which agencies may contract when essential to their mission. These include obtaining outside points of view to avoid too limited judgment on critical issues and obtaining the opinions, special knowledge, or skills of noted experts. The FAR also includes services for which A&AS are not to be used, such as to

- perform work of a policy, decision-making, or managerial nature that is the direct responsibility of agency officials;
- bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;

⁷ GAO, *Budget Object Classification: Origins and Recent Trends*, [GAO/AIMD-94-147](#) (Washington, D.C.: September 1994) and GAO, *Budget Function Classifications: Origins, Trends and Implications for Current Uses*, [GAO/AIMD-98-67](#) (Washington, D.C.: February 1998).

⁸ Federal Acquisition Streamlining Act of 1994, Pub. L. No. 103-355, § 1004, § 1054 (1994).

⁹ 10 U.S.C. § 2304b (2008) and 41 U.S.C. § 253i (2008).

¹⁰ Because the focus of this report is on A&AS budget reporting, we did not address compliance with the multiple award provisions or the various other A&AS-specific requirements in the U.S. Code, including, for example, those in 7 U.S.C. § 2207a, 10 U.S.C. § 2399(e), or 41 U.S.C. § 419.

- contract on a preferential basis to former government employees; or
- obtain professional or technical advice that is readily available within the agency or another federal agency.

An additional limitation pertaining to A&AS is that agencies are not to hire contractors to conduct evaluations or analyses of any aspect of a proposal submitted for an initial contract award unless the agency makes a written determination that government personnel (from the requesting agency or from any other agency) with adequate training and capabilities to perform the required proposal evaluation are not readily available.¹¹

Table 2 portrays a time line of key events related to A&AS.

Table 2: Chronology of Key Events in A&AS History

Decade	Year	Key events
1970s	1978	<ul style="list-style-type: none"> • OMB Bulletin No. 78-11 required agencies to apply extra controls to the procurement of consultant services.
1980s	1980	<ul style="list-style-type: none"> • OMB issued <i>Circular A-120, Guidelines for the Use of Consulting Services</i>. • The Supplemental Appropriations and Rescission Act of 1980 required agencies to report on funds requested for consulting services. DOD focused on four categories: appointed experts and consultants, studies and analyses, professional and management services, and contract systems engineering and technical services.
	1982	<ul style="list-style-type: none"> • Pub. L. No. 97-258, §1114 required agencies to report their use of consulting services in budget justification materials. It also required agency inspectors general to evaluate agencies' annual progress in establishing management controls over contracted consulting services and in improving the accuracy and completeness of information reported in FPDS.
	1985	<ul style="list-style-type: none"> • We reported that DOD excluded up to \$14 billion in services that could have been reported if the department had used guidelines in the Supplemental Appropriations and Rescission Act of 1980.
	1986	<ul style="list-style-type: none"> • GSA placed a checkbox in the FPDS to indicate whether contracts were for A&AS.
	1988	<ul style="list-style-type: none"> • OMB used the term "advisory and assistance services" in its revised and renamed <i>Circular A-120, Guidelines for the Use of Advisory and Assistance Services</i>, which defined A&AS as "Those services acquired . . . by contract or by personnel appointment to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance." • OFPP reported that the <i>Circular A-120</i> definition of A&AS was too broad and complex and subject to varying interpretations, which resulted in under-reporting of expenditures among agencies.

¹¹ Exceptions to this limitation are if the contractor is a Federally Funded Research and Development Center or if such functions are otherwise authorized. FAR 37.203(d).

Decade	Year	Key events
1990s	1992	<ul style="list-style-type: none"> DOD issued an A&AS directive <i>Acquiring and Managing Contracted Advisory and Assistance Services</i>, which provided guidance on A&AS.
	1993	<ul style="list-style-type: none"> OMB rescinded <i>Circular A-120</i> and issued Policy Letter 93-1, <i>Management Oversight of Services Contracting</i>. The Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act of 1993 defined consulting services as “(1) management and professional support services; (2) studies, analyses, and evaluations; (3) engineering and technical services . . . and (4) research and development” and required OMB to establish a separate budget object class for consulting services.”
	1994	<ul style="list-style-type: none"> The Federal Acquisition Streamlining Act of 1994 (FASA) added new sections to the U.S. Code, authorizing task order contracts for A&AS for 5 years and incorporating the above definition of A&AS; however, the definition no longer included the fourth element, “research and development.” FASA directed OMB to establish a new budget object class for A&AS obligations.^a
	1995	<ul style="list-style-type: none"> The FAR Council^b implemented the definition of A&AS in FAR Subpart 37.2. The Council noted that its ability to clearly define A&AS was constrained by the very broad statutory definition. The FAR provides examples of the three broad categories of A&AS: “Management and professional support services” include contractual services that provide assistance, advice or training for the efficient and effective management and operation of organizations, activities, or systems. “Studies, analyses and evaluations” include contracted services that provide organized, analytical assessments/evaluations in support of policy development, decision-making, management, or administration. “Engineering and technical services” include contractual services used to support the program office during the acquisition cycle by providing such services as systems engineering and technical direction. (FAR 2.101)
	1996	<ul style="list-style-type: none"> At the direction of OFPP, GSA removed the checkbox agencies used in FPDS to indicate if contracts were for A&AS. The President’s Council on Integrity and Efficiency reported that many inspectors general found inaccuracies governmentwide in reporting contract actions for A&AS.
	1999	<ul style="list-style-type: none"> The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 amended the U.S. Code to require DOD to annually review and report to Congress expected contract services to ensure they were properly categorized as A&AS.
Today	2004	<ul style="list-style-type: none"> DOD rescinded its 1992 directive on acquiring and managing A&AS, citing redundancy with its other service contracting rules.
	2007	<ul style="list-style-type: none"> The John Warner National Defense Authorization Act for Fiscal Year 2007 authorized waivers to A&AS ordering period in certain situations and required that DOD and OFPP report to Congress on the use of A&AS before the authority can be used.

Source: GAO analysis of legislative history.

^aGenerally, A&AS task order contracts with an ordering period of more than 3 years and a contract amount in excess of \$11.5 million should provide for multiple awards. 10 U.S.C. § 2304b(e) and 41 U.S.C. § 253i(e). See also FAR 16.504(c)(2), which raised the dollar threshold to \$11.5 million pursuant to 41 U.S.C. § 431a.

^bThe FAR Council is a group comprised of senior procurement officials from DOD, GSA, and the National Aeronautics and Space Administration that oversees development and maintenance of the FAR.

Other Relevant Service Contracting Policies and Regulations

The federal government is increasingly relying on private entities to provide a wide range of services; federal spending on services represented over 60 percent of total contract spending governmentwide in 2006.¹² To help agencies manage their service contracts, various federal regulations and policies provide guidance in key areas, such as organizational and consultant conflicts of interest, inherently governmental functions, and improper personal services contracts. For example:

- OMB Policy Letter 93-1, *Management Oversight of Service Contracting*, establishes government-wide policy, assigns responsibilities, and provides guiding principles for executive departments and agencies in managing the acquisition and use of services.¹³
- FAR Subpart 7.5 on inherently governmental functions establishes Executive Branch policy related to service contracting and inherently governmental functions to assist agency officials and employees in avoiding an unacceptable transfer of official responsibility to government contractors.
- FAR Subpart 9.5 on organizational and consultant conflicts of interest prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest. An organizational conflict of interest occurs under a service contract when the objectivity of a government contractor is impaired or the contractor has an unfair advantage over others. The FAR notes that organizational conflicts of interest are more likely to occur in contracts involving certain services, such as management support services and consultant or other professional services.
- FAR Section 37.104 on personal services contracts establishes that obtaining personal services by contract is prohibited by law unless Congress has specifically authorized acquisition of the services by contract. A personal service occurs under a service contract when contractor personnel are subject to the relatively continuous supervision and control of a federal employee.

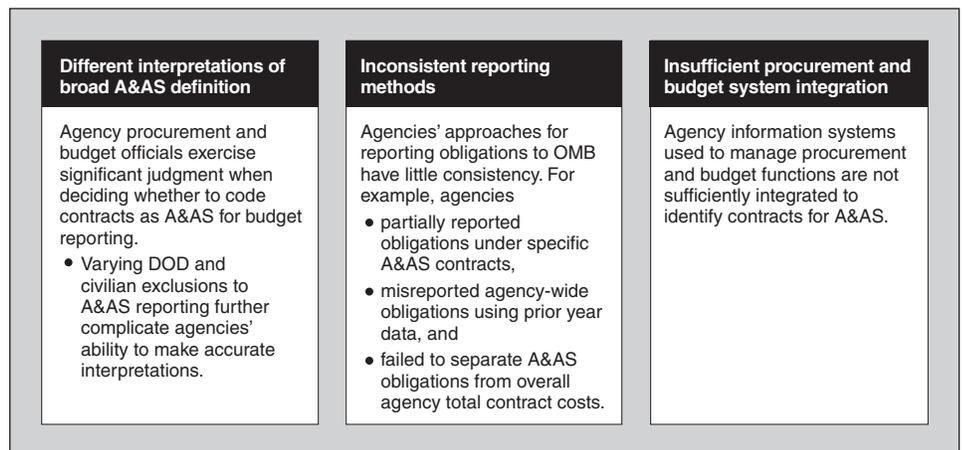
¹² Acquisition Advisory Panel, *Report of the Acquisition Advisory Panel of the Office of Federal Procurement Policy and the United States Congress* (January 2007).

¹³ FAR Subpart 37.5 establishes responsibilities for implementing OFPP Policy Letter 93.1.

Agencies' Reported A&AS Obligations Are Not Accurate or Used for Management Purposes

Agencies' reported A&AS obligations to OMB for inclusion in the President's budget are inaccurate to the point of being meaningless. Although the five departments where we conducted our file reviews reported about \$14 billion to OMB for their fiscal year 2006 A&AS obligations, a variety of factors cause inaccuracies in agencies' reporting. (See app. II for a list of their reported A&AS obligations.) First, the different interpretations of the broad A&AS definition contribute to errors in identifying contracts. Second, we found little consistency in agencies' approaches for reporting these obligations. Third, the lack of integration of agency procurement and budget systems thwarts accurate accounting of A&AS contracts. Figure 2 depicts these factors.

Figure 2: Factors Contributing to Inaccuracies in Agencies' Reported A&AS Obligations



Source: GAO.

Different Interpretations of Broad Definition and Numerous Exclusions Contribute to Errors in Identifying Contracts as A&AS

Different interpretations of the broad A&AS definition (as set forth in budget object class 25.1 in OMB's *Circular A-11*) by agency officials contribute to errors in identifying contracts as A&AS. Agency procurement and budget officials told us they must use a significant amount of judgment and interpretation when deciding whether to code contracts as A&AS for budget reporting. Officials added that given the extensive scope of the definition, making distinctions between what constitutes having a contractor provide an advisory or consultative-type service versus directly performing established services to assist an agency is often difficult. For example, the definitions cover functions ranging from contracts for consultants to provide very specific "expert opinions" to more generic

contracts for “assistance” in areas such as management and professional support and engineering and technical services.

We found misidentified contracts in seven of the 10 agencies where we performed contract file reviews. Overall, agencies erroneously identified about 18 percent (59) of the 334 contract actions we reviewed as A&AS and inappropriately included them in their fiscal year 2006 reported obligations. As shown in table 3, examples of misidentified contract actions included services for fitness center operation and maintenance, food and maintenance services at a federal detention center, and the installation of telecommunications cabling.

Table 3: Misidentified A&AS Contract Actions Found at Agencies We Reviewed

Agency	Misidentified contract actions as percentage of agency sample we reviewed	Examples of contract actions misidentified as A&AS
Department of Homeland Security-Customs and Border Protection	54	<ul style="list-style-type: none"> • installation of telecommunications cabling • computer hardware and software • data entry
Department of Homeland Security-Immigration and Customs Enforcement	21	<ul style="list-style-type: none"> • food and maintenance services for federal detention center • employee occupational health services • software and maintenance support
Missile Defense Agency	21	<ul style="list-style-type: none"> • fitness center operation and maintenance • employee identification badges • photocopier machine maintenance
Energy-National Nuclear Security Administration	19	<ul style="list-style-type: none"> • medical evacuation services • building demolition at federal facility • software development
Treasury-Internal Revenue Service	17	<ul style="list-style-type: none"> • courier and messenger services • rental of storage space for files related to tax audits
Air Force Aeronautical Systems Center	6	<ul style="list-style-type: none"> • administrative services for weapons system program
Navy-Naval Sea Systems Command	3	<ul style="list-style-type: none"> • software application development and support

Source: GAO analysis of agency contract files and interviews with agency officials.

Note: We judged a contract to be misidentified if the services to be provided did not meet the FAR and OMB *Circular A-11* definition of A&AS. We did not find misidentified contracts in our sample at Air Force Headquarters, National Institutes of Health, and the Naval Air Systems Command. Numbers rounded to nearest percentage.

In addition to the contract actions that were clearly not A&AS, we also found examples where the determination of whether the contracted service constituted A&AS was highly subjective because of its broad definition. Examples of such contracts included arbitration services and speakers at training events. As such, we could not definitively determine whether the agency misidentified the contract actions.

Over the years, certain activities have been excluded from civilian and defense reporting of A&AS, exclusions that further complicates agency efforts to identify such contracts for budget reporting. These exclusions are set forth in the FAR, OMB *Circular A-11*, and in DOD's Financial Management Regulation. However, the *Circular A-11* exclusions are more extensive than those in the FAR, and DOD has 14 exclusions, such as initial training supporting weapons system procurement. See appendix III for a full list of civilian and defense exclusions to A&AS reporting. Further, DOD canceled its A&AS directive in 2004, which listed these 14 exclusions, but did not make conforming changes to its financial management regulation—which still lists them. According to DOD procurement policy officials, this discrepancy has likely contributed to confusion in properly coding contracts as A&AS.

Agencies' Approaches for Reporting Obligations Have Little Consistency and Sometimes Lack Sound Basis

We found that agencies used a range of approaches and practices for reporting their A&AS obligations to OMB. These included misreporting (such as using prior year data) and partially reporting the obligations. Also, several agencies could not tell us the source for their obligations reported to OMB. OMB officials were unaware of these discrepancies and inconsistencies until we informed them.

For example, HUD budget and procurement officials told us that their budget staff report all of the department's contract obligations under budget object class 25.1—without trying to distinguish those for A&AS—since they were not aware of the internal contracting database that contained A&AS information. As such, HUD officials were unable to understand the basis for HUD's reported obligations of \$400 million for A&AS in fiscal year 2006. According to HUD budget officials, even after working with OMB on how to properly classify their department's contracts for A&AS and other service contracts for budget reporting, they are still unable to make this differentiation. For fiscal year 2007, the agency could not identify any A&AS contracts in its internal contracting database, but it still reported \$205 million in A&AS obligations to OMB.

VA officials told us the agency did not report departmentwide obligations for A&AS to OMB in fiscal years 2005 and 2006, even though amounts for A&AS appeared in the budget for those years (\$1 million in fiscal year 2005 and \$8 million in fiscal year 2006). When we questioned VA officials about these numbers, they could not explain where these amounts came from and acknowledged that they did not accurately represent their A&AS obligations. In addition, the VA could not substantiate its reported fiscal year 2007 estimate of \$9 million. According to the department, in October 2007 it added a code to its financial management system to help provide the ability to capture A&AS obligations.

The Air Force misreported its A&AS obligations using prior year data. It reported its fiscal year 2006 obligations for A&AS based on what it reported for fiscal year 2005 because officials did not want to conduct the manually intensive data call to obtain needed information. Air Force officials said they reduced their reported fiscal year 2005 data based on broader budget reductions made by the Office of the Secretary of Defense. They noted that in 2005 and years prior the Air Force had relied upon the intensive data calls to collect and report A&AS obligations and said they would use this process again for fiscal year 2007. Even these data calls have demonstrated shortcomings; in 2006 the Air Force Audit Agency reported¹⁴ that Air Force officials had provided inaccurate and incomplete obligations in fiscal year 2004 as a result of their data calls for A&AS obligations.

Agencies also used inconsistent methodologies for reporting A&AS obligations. For example, according to officials from Energy and Treasury's Internal Revenue Service, if "a majority" of a single contract is for A&AS, then they report the contract's total obligations as A&AS. On the other hand, Aeronautical Systems Center and Naval Sea Systems Command procurement and budget officials told us their agencies' procedure is to report only the labor costs under their A&AS contracts and to exclude other costs, including travel, materials, and other direct costs. According to Aeronautical Systems Center officials, the labor portion of their A&AS contracts averages about 80 percent of these contract costs.

¹⁴ Air Force Audit Agency, *F2006-0001-FC3000, Support Contract Data Validation* (Feb. 7, 2006).

Lack of Integration of Agency Procurement and Budget Systems Thwarts Accurate Accounting of A&AS Contracts

Most agencies we reviewed lack the capability to identify, via their budget systems, the contracts for A&AS that comprised their reported obligations. According to procurement and budget staff, the lack of integration in such management systems poses another challenge to accurately accounting for their contracts for A&AS because, while budget and program staff are responsible for reporting the obligations to OMB, they cannot readily—if at all—identify the specific contracts that are funded with A&AS dollars. For example, Air Force and National Institutes of Health officials cited their need to conduct intensive manual data calls to extract and report on contracts for A&AS from their procurement and budget systems. Although Army budget staff perform detailed manual reviews of obligation data in financial databases to generate an estimate of A&AS costs, they could not provide us with a list of contracts specifically associated with that data (contract numbers are not part of the accounting database).

In 1996, as part of its efforts to streamline data collection on federal contracts, OMB modified FPDS, the federal government's contracting database, to stop tracking A&AS contracts. Prior to this action, FPDS contained a field where agency procurement staff could mark contracts as A&AS as part of their routine data entry of contract information. Since the field was removed, procurement officials have been disassociated from the process of identifying contracts as A&AS. According to OFPP officials, the 2007 Defense Authorization Act requirement that OFPP report on contracts for A&AS has caused them to reevaluate whether or not A&AS should be tracked again in FPDS-NG. However, OFPP's effort is still in the planning stages.

Agencies Do Not Use Reported A&AS Obligations for Management Purposes

Agency officials told us they see little or no internal value in tracking A&AS obligations as a separate category of services since they do not use the information for management purposes. For their part, OMB officials also said they question the benefit of reporting A&AS as a separate category of services. OMB budget officials told us that they do not monitor agencies' reporting of A&AS as a separate category of services because reported obligations for A&AS represent a very small percentage of total service contract obligations. They added that OMB would normally defer to agencies' judgment on the amount and type of A&AS they procure.

Further, at the agencies we reviewed, officials told us they manage their A&AS contracts, as they do their other professional support service contracts, through established acquisition management procedures. Agency procurement officials said they utilize broader federal service contracting policies and regulations to manage these contracts, such as

FAR provisions and OFPP policy letters related to management and oversight of service contracting, inherently governmental functions, organizational conflicts of interest, and personal services contracts. They refer to FAR Subpart 37.2, Advisory and Assistance Services, for governmentwide policy on A&AS and do not have separate policies or directives exclusive to their contracts for A&AS.

Reflecting the lack of a clear distinction between A&AS and other professional management support services, OMB rescinded its *Circular No. A-120, Guidelines for the Use of Advisory and Assistance Services*, in 1993¹⁵ and issued Policy Letter 93-1, *Management Oversight of Services Contracting* in its place. In 2004, DOD followed suit, canceling its 1992 directive that contained guidance on acquiring and managing A&AS, citing redundancy with its other service contracting rules.

Agencies Generally Procured A&AS on a Recurring Basis, Met Period of Performance Limits, and Used Many Contract Vehicles

Agencies we reviewed frequently entered into contract actions for A&AS on a recurring basis and commonly retained the same contractor to perform these services, with about half of these actions for recurring requirements awarded or issued competitively. Relatively few of the A&AS contract actions exceeded or had the potential to exceed 5 years. Agencies used many contracting vehicles to acquire A&AS. Time-and-materials contract actions were the most prevalent contract type, and there was considerable use of the GSA schedule program.¹⁶ Overall, 63 percent of the A&AS contract actions were issued or awarded on other than a sole source basis.

All Agencies Reviewed Contracted for A&AS on a Recurring Basis and Frequently Used the Same Contractor

We found recurring contract actions—that is, actions for which there was evidence that a contract action for the same or similar services existed immediately prior to the present contract action—in all the agencies we reviewed. Overall, nearly 70 percent of the 275 A&AS contract actions¹⁷ in our sample were recurring to meet continuing needs. The recurring requirements included such services as logistics, engineering, acquisition, program management, and legal support. Table 4 provides the frequency

¹⁵ Transmittal Memorandum No. 1, 58 Fed. Reg. 63593-01 (1993), 59 Fed. Reg. 789 (1994).

¹⁶ Under the schedule program, GSA offers contracts that provide agencies with a simplified process intended to obtain commercial supplies and services at bulk prices.

¹⁷ This number excludes the 59 actions that were misidentified as A&AS.

of recurring contract actions for each agency and examples of the types of recurring services procured in the A&AS contract files we reviewed.

Table 4: Percentage of and Services Provided by Recurring A&AS Contract Actions at Agencies We Reviewed

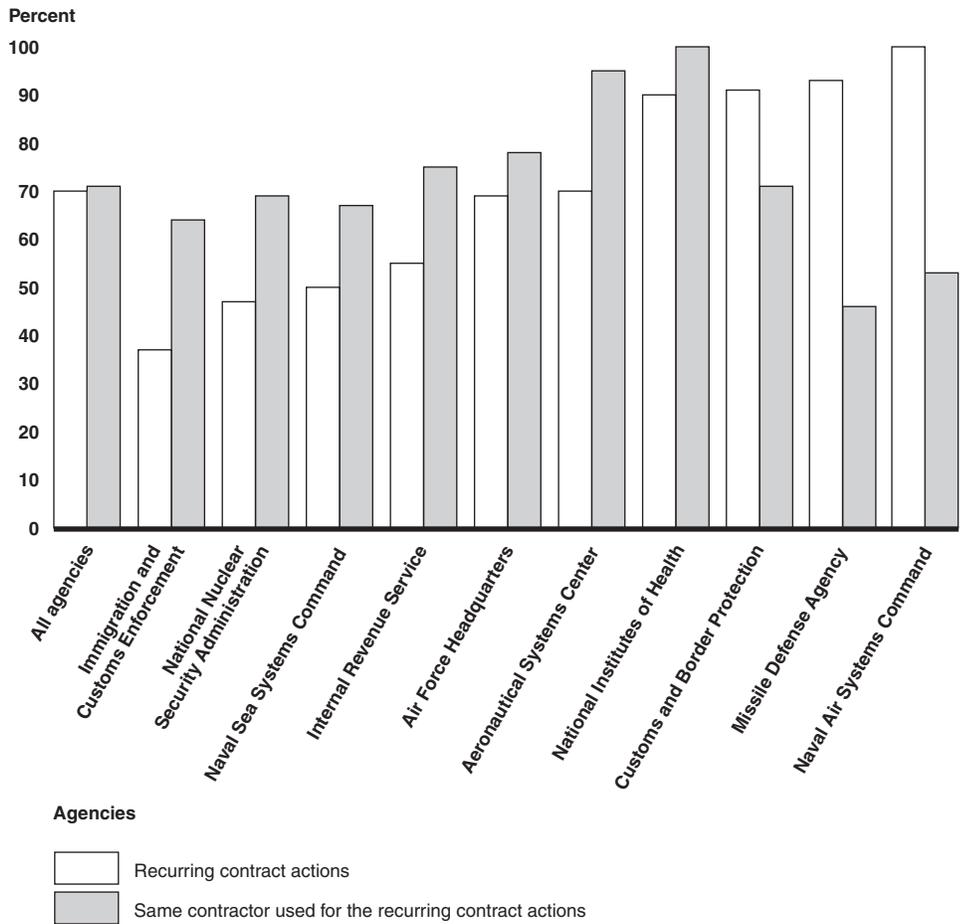
Agencies	Percent of recurring contract actions ^a	Examples of recurring support services
Naval Air Systems Command	100	<ul style="list-style-type: none"> • cost estimating and analysis services • flight operations safety and efficiency technical services • human systems engineering services
Missile Defense Agency	93	<ul style="list-style-type: none"> • acquisition services • modeling and simulation systems services • scientific, engineering, and technical assistance for programs
Customs and Border Protection	91	<ul style="list-style-type: none"> • strategic planning coordination and performance measurement • internal audit and analysis • aviation and customs advisors
National Institutes of Health	90	<ul style="list-style-type: none"> • patent research and patent prosecution • legal settlement services • legal subject matter expertise
Aeronautical Systems Center	70	<ul style="list-style-type: none"> • logistics and test and evaluation management • data and configuration management • cost estimating and earned value management analysis
Air Force Headquarters	69	<ul style="list-style-type: none"> • acquisition planning and policy implementation • functional and technical engineering support • subject matter expertise for communications systems and infrastructures
Internal Revenue Service	55	<ul style="list-style-type: none"> • information and security systems services • appraisal and accounting services • expert actuarial services for insurance tax reserves
Naval Sea Systems Command	50	<ul style="list-style-type: none"> • contract services • program management and metrics development • systems engineering and integration
National Nuclear Security Administration	47	<ul style="list-style-type: none"> • emergency preparedness planning • technical liaison and analytical services • budget execution
Immigration and Customs Enforcement	37	<ul style="list-style-type: none"> • technical, program management, and acquisition advice for information technology modernization • perform acquisition study • develop and support enterprise learning program

Source: Contract file documentation and agency correspondence (data); GAO (analysis).

^aPercentages rounded to nearest percent.

Furthermore, we found that agencies entered into contract actions with the same contractor as under the prior contract action over 70 percent of the time, with about half of these awarded or issued competitively. Figure 3 shows by agency the extent of recurring A&AS contract actions we identified through our contract file review, as well as the frequency with which these contract actions were with the same contractor. For example, almost 37 percent of contract actions we reviewed at the Department of Homeland Security's Immigration and Customs Enforcement were recurring, and of those recurring actions, nearly 64 percent were awarded to the same contractor for the follow-on requirement.

Figure 3: Recurring Contract Actions and Same Contractor Follow-on Awards Across Agencies



Source: Contract file documentation and agency correspondence (data); GAO (analysis).

Note: Percentages for *Recurring Contract Actions* are based on the 275 A&AS contract actions we reviewed (this number excludes the 59 actions that were incorrectly identified as A&AS). *Same Contractor* percentages are based on the total number of recurring contract actions we identified during our review.

Agencies' A&AS Contract Actions Generally Met Statutory Period of Performance Limits

Most contract actions we reviewed had periods of performance (including all contract options and award terms) that were less than 5 years—the statutory limit for A&AS task order contracts, but 2 exceeded and 10 had the potential to exceed the limit.¹⁸

- The period of performance of two task order contracts (at Energy's National Nuclear Security Administration and Homeland Security's Immigration and Customs Enforcement) exceeded or had the potential to exceed 5 years. The Energy contract has since expired; Immigration and Customs Enforcement officials told us they planned to recompute the requirement before the 5-year period was exceeded.
- The Naval Sea Systems Command, which accounted for 10 of the 12 contracts, failed to accurately identify certain SeaPort and SeaPort-e¹⁹ contracts as A&AS at award, and consequently included option periods that could have potentially exceeded 5 years, with the longest period of performance being 15 years. Based on recommendations from the Naval Audit Service,²⁰ however, the Command subsequently reviewed these contracts before the 5-year period had expired to ensure they were accurately classified as A&AS and refrained from exercising options to prevent the ordering periods from exceeding 5 years. The agency has since increased oversight to prevent A&AS task orders from exceeding 5 years.

An additional 15 contract actions exceeded or had the potential to exceed 5 years, but did not breach the A&AS statutory period of performance limit²¹ for various reasons.

- Six of the 102 orders under GSA schedule contracts we reviewed exceeded 5 years, with the longest being for 10 years. GSA administrators

¹⁸ 10 U.S.C § 2304b and 41 U.S.C § 253i authorize the use of task order contracts for A&AS, but limit ordering periods to 5 years unless a longer period is provided by law.

¹⁹ Seaport (Naval Sea Systems Command headquarters only) and Seaport-e (enterprisewide) provide a secure automated, Web-based procurement process and a single point for acquiring and administering task orders for professional, engineering, and support services.

²⁰ Naval Audit Service, *N2005-0041, Contracts for Studies and Levels of Effort at the Naval Sea Systems Command* (Apr. 20, 2005).

²¹ That is, they were entered into under a different authority than 10 U.S.C. § 2304b or 41 U.S.C. § 253i, which govern the 5-year limit for A&AS task order contracts.

its schedule program under the authority of 40 U.S.C. § 501 and 41 U.S.C. § 259(b)(3).²²

- Six contract actions had a period of performance of more than 5 years but less than 5.5 years. A statutory provision allows for a one-time sole-source award of up to 6 months for continuation of A&AS services based on extenuating circumstances, such as delay in award of a new contract.
- Three additional contract actions exceeded 5 years but were not subject to the A&AS statutory period of performance limitation on task order contracts. These actions included a stand-alone contract (i.e., not a task order contract), a purchase order, and an agreement between two federal agencies.

Agencies Use a Broad Range of Contract Types and Vehicles for A&AS

Agencies can use a broad range of contract types and vehicles to meet their needs. For example, time-and-materials contracts can be used in conjunction with stand-alone or indefinite-quantity contracts. We recently reported that time-and-materials contracts are considered high risk to the government because they provide no positive profit incentive to the contractor for cost control or labor efficiency.²³ The choice of contract type is the principal means agencies have for allocating cost risk between the government and the contractor. Agencies can also award contracts or issue task orders themselves, or, through interagency contracting, rely on another agency's contract, such as a GSA schedule contract. Figure 4 shows some of the contract vehicles and types.

²² See also FAR § 16.500(c) noting that nothing in FAR Subpart 16.5 restricts GSA from entering into schedule, multiple award, or task or delivery order contracts under other provisions of law.

²³ GAO, *Defense Contracting: Improved Insight and Controls Needed over DOD's Time-and-Materials Contracts*, [GAO-07-273](#) (Washington, D.C.: June 29, 2007).

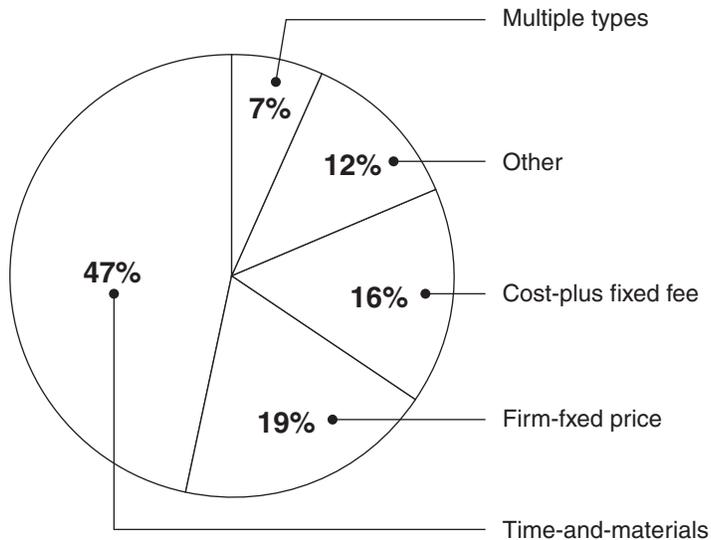
Figure 4: Examples of Contract Vehicles and Types

Stand-alone contracts	Indefinite-quantity contracts <i>(also known as task-order contracts)</i>	
Do not allow for individual orders to be placed against the contract.	Provide for an indefinite quantity, within stated limits, of products or services during a fixed period. Government places orders for individual requirements under these contracts. GSA schedule contracts are often indefinite-quantity contracts.	
<i>The government's basis for payments, contractor's obligations, and the party assuming more risk for cost overruns changes depending on whether the contract is fixed price, cost reimbursable, or time-and-materials.</i>		
Fixed price	Cost reimbursable	Time-and-materials
Government pays fixed price even if actual total cost of product or service falls short of or exceeds the contract price. May also pay an award or incentive fee related to performance.	Government pays contractor's allowable costs. Also may pay a fee, which may be related to performance.	Government pays fixed per-hour labor rates that include wages, overhead, general administrative costs, and profit; government might reimburse contractor for other direct costs, such as travel and materials costs.
Contractor provides an acceptable deliverable at the time, place, and price specified in the contract.	Contractor makes good faith effort to meet government's needs within the estimated cost.	Contractor makes good faith effort to meet government's needs within the ceiling price.
Who assumes risk of cost overrun? Contractor	Who assumes risk of cost overrun? Government	Who assumes risk of cost overrun? Government

Source: FAR, Defense Federal Acquisition Regulation Supplement, DOD Contract Pricing Guide (data); GAO (presentation and analysis).

For the files we reviewed, time-and-materials contract actions were prevalent, representing almost half of all A&AS actions, although the frequency varied greatly across agencies. For example, 93 percent of contract actions at the Aeronautical Systems Center were time-and-materials, whereas we found none at the Naval Sea Systems Command. Figure 5 illustrates the distribution of A&AS contract types at agencies we reviewed.

Figure 5: Total Agency Distribution of A&AS Contract Types for Contract Actions We Reviewed



Source: Contract file documentation and Agency correspondence (data); GAO (analysis).

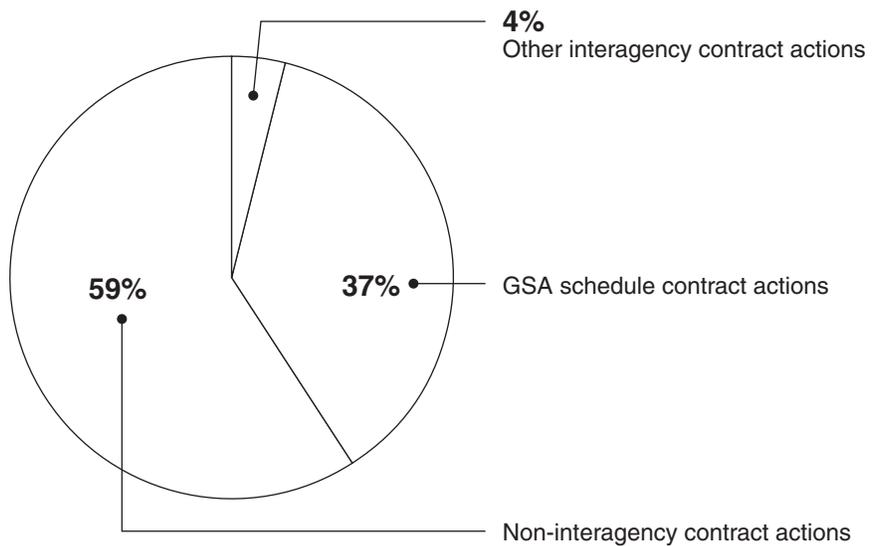
Note: "Other" includes, for example, cost-plus award fee and interagency reimbursable agreements. "Multiple Types" refers to contract actions that included more than one contract type for services. Percentages rounded to nearest percent and do not total 100 percent due to rounding.

In addition, agencies may use interagency contracting vehicles to acquire services from other government agencies, such as GSA's schedule program.²⁴ Interagency contracting vehicles were used for over 40 percent, or 113 of the 275 A&AS contract actions we reviewed, with about 90 percent of these under GSA schedule contracts. We found the highest percentage of interagency contracts used at the Air Force's Aeronautical Systems Center; 90 percent of the contract actions we reviewed at that location were issued under GSA schedule contracts. However, the Center has recently shifted its A&AS contracting away from schedule contracts to its own Consolidated Acquisition of Professional Services contract, an indefinite-delivery/indefinite-quantity multiple award contract initiated in 2006.

²⁴ We designated interagency contracting as a high-risk area in 2005, noting that while governmentwide use of interagency contracts has increased, management and oversight had not kept pace. GAO, *High Risk Series: An Update*, GAO-07-310 (Washington, D.C.: January 2007).

Figure 6 shows the distribution of interagency contract actions identified in our contract file review.

Figure 6: Frequency of Interagency Contract Actions Found during Our Contract File Review



Source: Contract file documentation and Agency correspondence (data); GAO (analysis).

Agencies can also procure goods or services using competition or on a sole-source basis (that is, where agencies solicit and negotiate with only one source). Generally, the FAR requires agencies to pursue full and open competition for soliciting offers and awarding contracts for services unless otherwise authorized. To determine whether or not the actions we reviewed were issued or awarded using competition, we assessed whether the agency contracting officials had prepared a justification and approval for a sole-source action or whether documentation supporting a competitive process was in the contract file. While about 37 percent of the actions we reviewed, according to file documentation, were sole-source procurements; the majority (63 percent) were not. As with contract type, we found substantial variation in the regularity of competitive contract awards among the agencies we reviewed. The Naval Sea Systems Command used competition to award all contract actions we reviewed, whereas over 60 percent of contract actions at Air Force Headquarters, the Aeronautical Systems Center, and the National Institutes of Health were not competed. Moreover, the Air Force and National Institutes of Health sole-source awards were commonly follow-on contract actions for similar A&AS.

Conclusions

As the government increasingly turns to contractors to provide a wide range of professional management support services such as A&AS, these contracts need to be effectively managed and the contractors properly overseen. However, the long-standing requirement that agencies report A&AS budget obligations is not contributing to this management and oversight. That the reporting has not provided Congress with accurate or meaningful information has been identified as a problem for over 20 years. From an agency perspective, the broad definition of A&AS serves little utility for management or accountability purposes, as such contracts are not clearly distinguishable from other professional support service contracts either in policy or practice. The broad definition of A&AS, coupled with the fact that reported obligations are not being used for management or oversight purposes, calls into question the need to continue the requirement as it currently stands. Further, while OMB's consideration of re-implementing a field in FPDS-NG for A&AS contracts may help provide agency procurement officials and others with additional insight on their obligations, this action will be only marginally beneficial without an overarching clarification of the current broad definition of A&AS.

Matter for Congressional Consideration

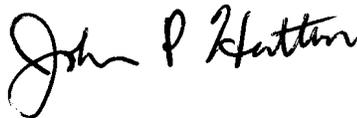
To address the long-standing problems agencies face in reporting A&AS obligations, Congress should consider re-evaluating the need for agencies to report A&AS funding separately to OMB, recognizing that contracts for A&AS are not managed any differently than other contracts for professional management support. If insights into A&AS contracts are desired, Congress should consider clarifying the statutory definition of A&AS to more explicitly address congressional concerns related to these types of contracts and require the Administrator of OFPP to reinstate data collection on contracts for A&AS in FPDS-NG using the revised definition.

Agency Comments and Our Evaluation

We received written comments on a draft of this report from the Department of the Treasury, which agreed with our findings. Treasury's letter is reprinted in appendix IV. In emails, the departments of Homeland Security and VA stated that they also agreed. We received technical comments from the Departments of Health and Human Services, VA, and OFPP, which we incorporated as appropriate. The Departments of Defense, Energy, and HUD had no comment.

We are sending copies of this report to interested congressional committees, the Secretaries of Defense, Energy, Health and Human Services, Homeland Security, HUD, Treasury, and VA; the Director of OMB; the Administrator of GSA; and Administrator of OFPP. We will also provide copies to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-4841 or HuttonJ@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Michele Mackin, Assistant Director; Jaime Allentuck; Noah Bleicher; Lily Chin; Claudia Dickey; Carol Henn; Arthur James, Jr.; Julia Kennon; Sean Merrill; Angie Nichols-Friedman; Kenneth Patton; Brian Smith; and Anthony Wysocki.



John Hutton, Director
Acquisition and Sourcing Management

List of Committees

The Honorable Carl Levin
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The Honorable John McCain
Ranking Member
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United States Senate

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Committee on Homeland Security and Governmental Affairs
United States Senate

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The Honorable Duncan L. Hunter
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Henry A. Waxman
Chairman
The Honorable Tom Davis
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

Appendix I: Scope and Methodology

For the Department of Defense and selected civilian agencies, our objectives were to (1) assess whether reported obligations for advisory and assistance services (A&AS) are accurate or used for management purposes and (2) identify the extent to which A&AS contracts are used for recurring services and periods greater than 5 years, as well as the contract types and vehicles used.

To address our overall audit objectives, we conducted a contract file review at 10 agencies. To establish the agencies to include in the contract file review, we first obtained lists of the 24 Chief Financial Officers Act department level obligations reported to the Office of Management and Budget (OMB)—as reflected in OMB’s MAX A-11 data entry system¹—from fiscal years 2002 through 2006. We identified the 7 departments that had the highest average reported A&AS obligations during this 5-year period:

- Department of Defense
- Department of Energy
- Department of Health and Human Services
- Department of Homeland Security
- Department of Housing and Urban Development
- Department of the Treasury
- Department of Veterans Affairs

From that point, through analysis of department data and discussions with agency officials, we identified those departments that were able to provide us with a list of the fiscal year 2006 contracts that comprised their reported 2006 A&AS obligations to OMB. Two departments—Housing and Urban Development and Veterans Affairs—could not provide us with such a list and therefore were not part of our contract file review.² Next, through analysis of agency data on overall service contracts, as captured in the Federal Procurement Data System-Next Generation (FPDS-NG) and further discussions with agency officials, we identified the major agencies

¹ The OMB MAX A-11 data entry system is the tool agencies use to enter the data required for the President’s budget and mid-session update as specified in the annual OMB *Circular No. A-11*.

² We retained the Air Force in our contract file review even though its A&AS contract list included fiscal year 2005 contracts. According to Air Force officials, the agency prepared its fiscal year 2006 A&AS obligations reported to OMB using fiscal year 2005 obligations with appropriate reductions. The result was that A&AS contract lists provided to GAO contained contract actions that were tied to activities performed in fiscal year 2005 as opposed to the requested fiscal year 2006 contract actions.

or components within the 5 remaining departments that could provide us with a list of contracts comprising these reported obligations. The Department of the Army dropped out of our file review sample at this point, as it could not provide us with a list of A&AS contracts. Table 5 shows the locations where we did our work, including those where we could not perform a file review.

Table 5: Civilian and Defense Agencies We Reviewed

Civilian Agencies	Defense Agencies
Department of Energy, National Nuclear Security Administration, Albuquerque, New Mexico, and Washington, D.C.	Department of Air Force, Headquarters Air Force, Bolling Air Force Base, Washington, D.C.
Department of Health and Human Services, National Institutes of Health, Bethesda, Maryland	Department of Air Force Aeronautical Systems Center, Wright-Patterson Air Force Base, Dayton, Ohio
Department of Homeland Security, Customs and Border Protection, Indianapolis, Indiana, and Washington, D.C.	Department of Navy, Naval Air Systems Command, Patuxent River, Maryland
Department of Homeland Security, Immigration and Customs Enforcement, Washington, D.C.	Department of Navy, Naval Sea Systems Command, Washington Navy Yard, Washington, D.C.
Department of the Treasury, Internal Revenue Service, Washington, D.C.	Missile Defense Agency, Falls Church, Virginia
Department of Housing and Urban Development, Washington, D.C. ^a	Department of Army, Deputy Chief of Staff, Washington, D.C. ^a
Department of Veterans Affairs, Washington, D.C. ^a	

Source: GAO.

^aAgency visited but excluded from our contract file review because of inability to provide a contract list specific to A&AS contract actions with fiscal year 2006 obligations.

For our onsite file review, we generated a statistical random sample of 334 contract actions out of the 6,373 contracts that the 10 major agencies within our review identified as A&AS.³ We performed the file reviews using an electronic data collection instrument and onsite source verification. For instances where the contract file review results warranted follow-up with the agency, we requested and received additional information from agency officials, which we analyzed and incorporated into our final results where appropriate. The results of our agency-specific contract file reviews are generalizable to the particular agency location

³ The Department of Health and Human Services' National Institutes of Health identified 4,319 A&AS contract actions of the 6,373 from which our randomly selected contract files were drawn.

where we reviewed contract files. Table 6 depicts the number of contract actions we reviewed at each agency.

Table 6: Distribution of GAO’s Sample of Contract Actions Reviewed

Organizations	Number of contract actions
Air Force Headquarters	13
Aeronautical Systems Center	32
Customs and Border Protection	50
Immigration and Customs Enforcement	38
Internal Revenue Service	35
Missile Defense Agency	38
National Institutes of Health	30
National Nuclear Security Administration	37
Naval Air Systems Command	30
Naval Sea Systems Command	31
Total	334

Source: Contract file documentation and Agency correspondence (data); GAO (analysis).

Note: The number of contract actions reviewed varied by agency based on availability of files and the frequency of contract actions identified as non-A&AS during contract file review.

To assess whether reported A&AS obligations are accurate or used for management purposes, we analyzed pertinent sections of the Federal Acquisition Regulation and OMB *Circular No. A-11, Preparation, Submission, and Execution of the Budget*, requirements for contracted A&AS. We reviewed prior GAO, inspectors general, and other audit agency reports. We also collected and reviewed existing agency-specific service contracting guidance, reviewed obligation data from the OMB MAX A-11 data entry system, and performed our contract file reviews at selected agencies. We conducted a detailed review of congressional and other actions regarding consulting services and A&AS over time. We also interviewed agency procurement and budget officials to discern their processes and procedures for reporting A&AS obligations to OMB and discussed the accuracy and usefulness of reported A&AS obligations with officials from OMB and the Office of Federal Procurement Policy. Because the focus of this report was the government’s budget reporting of A&AS obligations, we did not address compliance with various A&AS-related provisions, such as the requirement for multiple awards for A&AS task order contracts (10 U.S.C. § 2304b(e) and 41 U.S.C. § 253i(e) and those in 7 U.S.C. § 2207a, 10 U.S.C. § 2399(e), or 41 U.S.C. § 419. We also did not assess compliance with a requirement under federal appropriations law

that agencies must confirm that their reported obligations were certified by officials designated by the agency head.⁴

We relied on OMB's MAX database system to analyze A&AS obligations because FPDS-NG, which is used to collect, develop, and disseminate procurement data from executive agencies, does not distinguish A&AS contract actions and their associated obligations. Because there was no direct denotation for A&AS contract actions within FPDS-NG, we attempted to identify federal product and service codes⁵ that relate to A&AS using the database system, but found, through outreach with agency officials, a wide range of product and service codes—from six to over 400—that were identified as having the potential to include A&AS contract actions (that is, while these product and service codes may involve A&AS, they also may not). Because of the wide range of product and service codes that could potentially include A&AS, we were unable to determine, through an analysis of contract actions reported in FPDS-NG, the extent to which A&AS contract actions may have been underreported.

To assess the extent to which agencies use A&AS to meet recurring requirements and the regularity with which the recurring contract actions are awarded to the same contractor for the follow-on work, we analyzed data obtained from our contract file reviews and held discussions with agency officials. For our review, we considered a “recurring contract action” to be an action for which there was evidence that a contract action for similar services existed immediately prior to the contract action we reviewed. Likewise, we considered “same contractor” as a contractor that had been issued or awarded a contract action for the same or similar A&AS immediately prior to the action we reviewed. Where we could not determine through our file review the status of prior contract actions or could not identify the prior contractor, we asked agency officials for additional information, which we incorporated into our final results where appropriate.

Similar to our activities related to recurring contract actions, we reviewed information from agency interviews and contract file review data to assess the frequency with which task order contracts for A&AS exceeded or had the potential to exceed a 5-year period of performance. In particular, our

⁴ 31 U.S.C. § 1108(c).

⁵ Product and service codes are used in FPDS-NG to identify the predominant product or service procured under a contract action.

contract file review enabled us to document the length of contracts and to evaluate the extent to which the statutory period of performance limitations for A&AS were met. “Period of performance” is the total potential length of a task order contract with all options or award terms exercised by the agency. Title 10 U.S.C. § 2304b and 41 U.S.C. § 253i limit the total period of performance for A&AS task order contracts to 5 years, with the possibility of an extension of no longer than 6 months for continuation of services when extenuating circumstances exist. For any contract actions identified as exceeding or having the potential to exceed the 5-year period of performance limitation, we requested and received agencies’ explanations for exceeding 5 years and incorporated their responses into our final results.

To evaluate what contract types and vehicles are used by agencies to acquire A&AS, we analyzed our contract file review data and information from our interviews with agency officials. In particular, our contract file review findings enabled us to analyze the contract types used by agencies to procure A&AS, the degree of interagency contracting for A&AS, and the level of competition for A&AS contract actions. To determine whether or not the action was issued or awarded using competition, we assessed whether the agency contracting officials had prepared a justification and approval for a sole-source action or whether documentation supporting a competitive process was in the contract file. Our interviews with agency officials provided additional information concerning agency-specific A&AS contracting practices that affect the contract type, interagency use, and extent of competition.

We conducted this performance audit from January 2007 to February 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Department-Level Reported A&AS Obligations for Agencies in Our Review

Agency	Fiscal year obligations (dollars in millions)					5-year total
	2002	2003	2004	2005	2006	
Department of Defense	4,728	5,768	7,117	9,690	10,157	\$37,460
Energy	438	407	324	403	444	\$2,016
Health and Human Services	534	734	784	1,013	1,038	\$4,103
Homeland Security	521	860	1,567	2,000	2,000	\$6,948
Treasury	98	95	346	554	583	\$1,676
Total obligations	6,319	7,864	10,138	13,660	14,222	\$52,203

Source: OMB (data); GAO (format).

Appendix III: Exclusions to the Definition of A&AS

The *Federal Acquisition Regulation* (FAR), Office of Management and Budget (OMB) *Circular No. A-11*, and the Department of Defense's (DOD) *Financial Management Regulation* provide exclusions to the definition of advisory and assistance services (A&AS), shown below.

Appendix III: Exclusions to the Definition of A&AS

Table 7: Reported A&AS Obligations for Departments Included in Our Review

Civilian exclusions		Defense exclusion
FAR	OMB <i>Circular A-11</i>	DOD <i>Financial Management Regulation</i>
1. Routine information technology services unless they are an integral part of a contract for the acquisition of advisory and assistance services.	1. Auditing of financial statements.	1. Activities that are reviewed and/or acquired in accordance with the OMB <i>Circular A-76</i> program.
2. Architectural and engineering services as defined in the Brooks Architect-Engineers Act (40 U.S.C. 1102).	2. Information technology consulting services, which have large scale systems acquisition and integration or large scale software development as their primary focus.	2. Architectural and engineering services for construction and construction management services procured in accordance with FAR Part 36.
3. Research on theoretical mathematics and basic research involving medical, biological, physical, social, psychological, or other phenomena.	3. Personnel appointments and advisory committees.	3. Day-to-day operation of facilities and housekeeping services and functions.
	4. Contracts with the private sector for operation and maintenance of information technology and telecommunication services.	4. Routine maintenance of systems, equipment, and software; routine administrative services; printing services; and direct advertising (media) services.
	5. Architectural and engineering services as defined in FAR 36.102 (40 U.S.C. 541).	5. Initial training services acquired as an integral part of the procurement of weapon systems, automated data processing systems, equipment or components, and training obtained for individual professional development.
	6. Research on theoretical mathematics and basic medical, biological, physical, social, psychological, or other phenomena.	6. Basic operation and management contracts for government-owned, contractor-operated facilities.
		7. Clinical and medical services for direct healthcare.
		8. Automated data processing and/or telecommunication functions and related services controlled in accordance with Title 41, Federal Information Resources Management Regulation (FIRMR), Code of Federal Regulations, Part 201.
		9. Automated data processing and/or telecommunications functions and related services exempted from FIRMR control pursuant to Sec. 2315 of Title 10 U.S.C. and reported in Budget Exhibit 43a, "Report on Information Technology Systems" of DOD 7110.1-M.
		10. Services supporting the policy development, management, and administration of the Foreign Military Sales Program not paid for with funds appropriated by Congress.
		11. Services acquired by or for a program office to increase design performance capabilities of existing or new systems or where they are integral to the logistics support and maintenance of a system or major component and/or end item of equipment essential to the operation of the system before final government acceptance of a complete hardware system.
		12. Research on theoretical mathematics and basic medical, biological, physical, social, psychological, or other phenomena.
		13. Auctioneers, realty-brokers, appraisers, and surveyors.
		14. Services procured with Defense Environmental Restoration Account funds.

Sources: FAR § 37.202, and OMB *Circular No. A-11* Budget Object Class 25.1 (civilian exemptions) and DOD *Financial Management Regulation* 7000.14-R (defense exemptions).

Appendix IV: Comments from the Department of the Treasury



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

MAR 18 2008

Mr. John Hutton
Director, Acquisition and Sourcing Management
Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Hutton:

In response to your February 28, 2008 request for comments, we have reviewed the draft report *Federal Contracting: Congressional Action Needed to Address Longstanding Problems with Reporting of Advisory and Assistance Services* (GAO-08-319). We have no comments on the draft report and agree with the findings.

We appreciate the opportunity to review and respond to the draft report. Please contact Thomas A. Sharpe, Jr., Office of the Procurement Executive, telephone (202) 622-1039, e-mail address Thomas.Sharpe@do.treas.gov, for further information or action associated with review of Treasury contracts for advisory and assistance services.

Sincerely,

A handwritten signature in black ink, appearing to read "P. McCarthy".

Peter B. McCarthy
Assistant Secretary for Management, and
Chief Financial Officer

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