

Hilton



United States
General Accounting Office
Washington, D.C. 20548

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Office of the General Counsel
B-236923

September 29, 1989

The Honorable Thomas C. Komarek
Assistant Secretary for Administration
and Management
U.S. Department of Labor

Dear Mr. Komarek:

This responds to your June 16, 1989 letter requesting advice about potential conflicts of interest when contracting with accounting firms. Your letter raises two types of possible conflict of interest issues. The first type concerns accounting firms which perform audits under a contract with the Department of Labor and later seek to provide technical assistance in solving management problems identified in the audit. The second type of issue involves firms which provide technical assistance services on management issues, and then seek to perform audits on the organization the firm advised.

You have solicited our advice because of a debate between the Department of Labor Inspector General (IG) and the contracting officer involved in these contracts over the extent of control the Department of Labor must exercise over these conflict of interest issues. The contracting officer has proposed that the Department preclude firms which perform either auditing or technical assistance services from providing the other type of service to the same organization for three years. The IG disputes the existence of an inherent conflict of interest in these situations and argues instead for addressing this issue on a case by case basis.

There are two separate "conflict of interest" or "independence" requirements applicable to accounting firms which do both management consulting and auditing under federal government contracts. The first of these requirements is found in the Comptroller General's Government Auditing Standards. The second general standard states that "[i]n all matters relating to audit work, the audit organization and the individual auditors, whether government or public, should be free from personal and external impairments to independence, should be

organizationally independent, and should maintain an independent attitude and appearance."

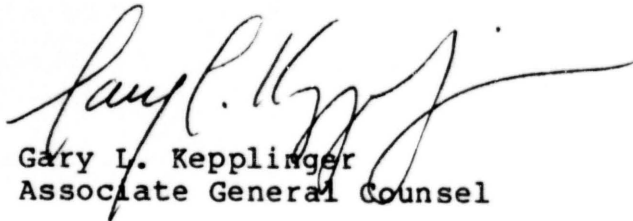
The second requirement is contained in subpart 9.5 of the Federal Acquisition Regulation (FAR). This subpart deals with "organizational conflicts of interest" which may arise in federal government acquisitions. When an accounting firm proposes to perform both audit and technical assistance services, an organizational conflict of interest exists when providing one type service would give the accounting firm an unfair competitive advantage in seeking, or would impair the firm's objectivity in performing, the other type of service. Subpart 9.5 outlines the steps which agency contracting officers should take in avoiding and/or mitigating organizational conflicts when they arise in government acquisitions.

In light of these requirements, we agree with your contracting officer that there are issues inherent in contracting for technical assistance and audit services from the same firm that the Department of Labor needs to address. There is a potential impairment of independence and objectivity when an accounting firm is asked to audit an organization which it previously advised or gave technical assistance to on management issues. There also may be competitive advantages or impairments to objectivity when an accounting firm audits an organization and later proposes to give technical advice on management issues raised in the audit. When federal agencies have excluded accounting firms from competing for technical services contracts because of a potential conflict of interest raised by a firm's prior audit work, we have upheld the agency action when it appeared to be reasonable. E.g., Arthur Young & Co., B-226626, June 12, 1987, 87-1 C.P.D. ¶ 591.

However, we believe that the Comptroller General standards and Subpart 9.5 of the FAR should be applied on a case by case basis after consideration of all the facts. In some cases, an accounting firm that provides technical assistance or audit services may be especially qualified to provide the other type of service. Therefore, we also agree with the IG's position that a blanket prohibition against an accounting firm providing both audit and technical assistance services is not desirable. Rather, organizational conflicts and impairments to independence should be viewed as critical issues for specific review as part of each procurement for auditing and technical

assistance services. Such a review should identify when it would be appropriate for an agency to exclude an accounting firm from the possible award of a contract because of the firm's prior services to the organization involved.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Gary L. Kepplinger".

Gary L. Kepplinger
Associate General Counsel