

# Report To The Chairman, Subcommittee On Human Resources, Committee On Post Office And Civil Service, House Of Representatives OF THE UNITED STATES

---

## Controls Over Consulting Service Contracts At Federal Agencies Need Tightening.

Which of the following best describes consulting service contracts awarded by Federal agencies? (Check one)

- Perhaps unnecessary.
- Extensive sole-source awards.
- Lots of modifications.
- End products not delivered on time.
- All of the above and more.

These problems will not be resolved until agencies take steps to control the need for and the contracting practices related to consulting services.



009075/111853

PSAD-80-35

MARCH 20, 1980





COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-197254

✓ The Honorable Herbert E. Harris, II  
Chairman, Subcommittee on Human Resources  
Committee on Post Office and Civil Service  
House of Representatives

15202915

Dear Mr. Chairman:

In your May 29, 1979, request, you asked that we review the use of consulting services in the Federal Government. We made our review at six Federal agencies. The review disclosed several problem areas, including questionable agency requirements for such services, extensive sole-source awards, and contract modifications which have increased costs and extended performance periods. This report contains recommendations to the Director, Office of Management and Budget, to take action directed at improving agencies' controls over the need for and use of consulting service contracts.

At your request, we have not obtained official agency comments on this report. Also, as arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

We will be happy to further discuss this report with you at any time.

Sincerely yours,

*James A. Atwater*

Comptroller General  
of the United States

AGC 000 70

AGC 000 74

912

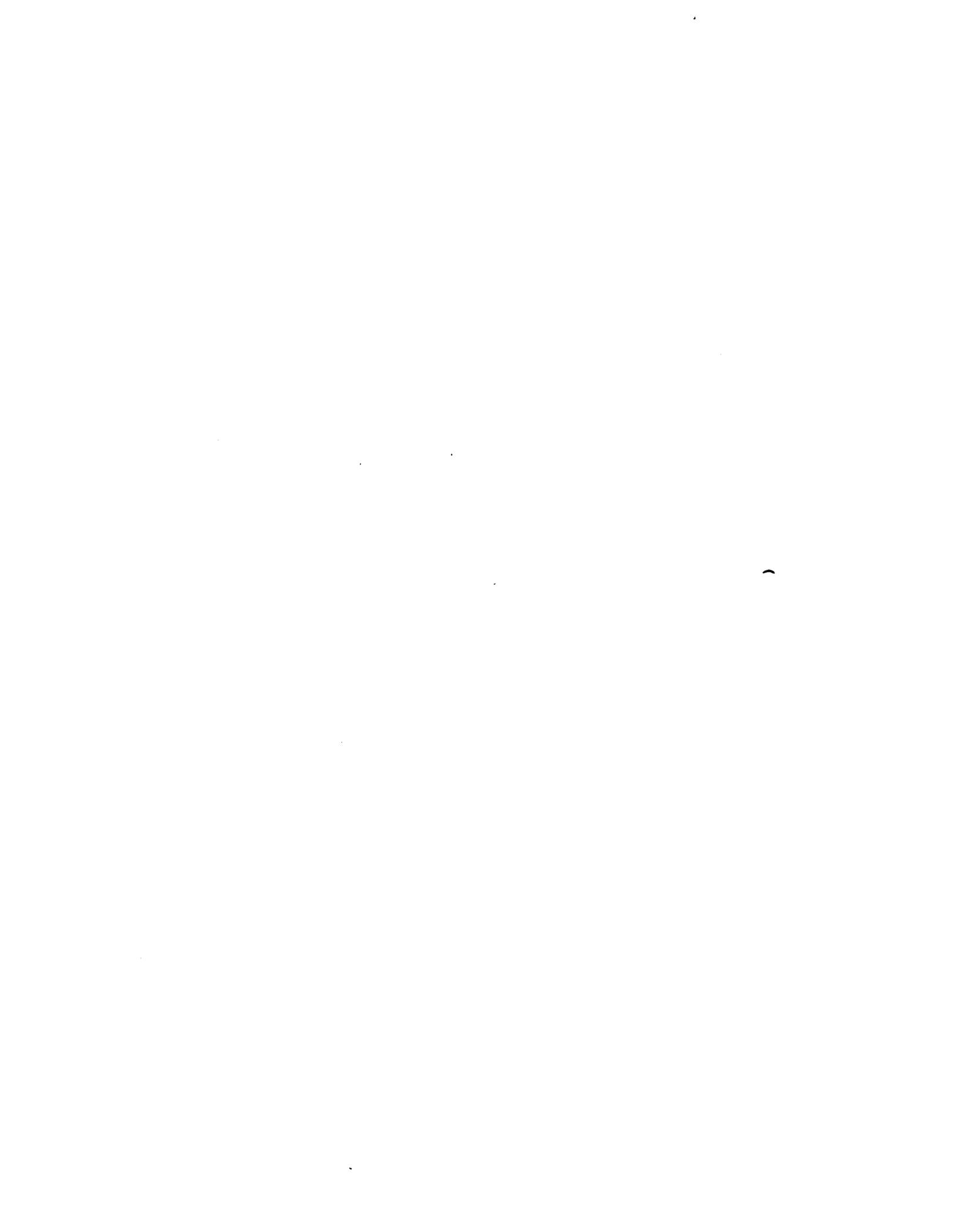
25

22

09

23

DLG 041 41



COMPTROLLER GENERAL'S  
REPORT TO THE SUBCOMMITTEE  
ON HUMAN RESOURCES  
COMMITTEE ON POST OFFICE  
AND CIVIL SERVICE  
HOUSE OF REPRESENTATIVES

CONTROLS OVER CONSULTING  
SERVICE CONTRACTS AT  
FEDERAL AGENCIES NEED  
TIGHTENING

D I G E S T

Federal agencies spend between \$1 billion and \$2 billion annually on consulting service contracts to obtain a variety of goods and services. Proper use of consulting services is a normal, legitimate, and economical way to improve Government services and operations, and agencies must continue to have the option to use consulting services where appropriate.

In spite of the considerable attention focused on misuse of these contracts, GAO found that serious, pervasive problems persist. Until agencies' management takes the initiative to control the need for and the contracting practices related to consulting service contracts, GAO believes there will be little or no improvement.

PAST ATTEMPTS INADEQUATE

Responding to presidential and congressional concern, the Office of Management and Budget, in May 1978, issued a bulletin to all executive agencies to better control and report the use of consulting services. However, in its review of 111 contracts, valued at \$19.9 million, in 6 agencies, GAO found the new guidance led to little substantive improvement. The problems GAO identified include:

- Questionable agency requirements for consulting services. Little or no consideration was given to in-house capability prior to the award of contracts, and several contracts resulted from unsolicited proposals. (See p. 5.)
- Extensive sole-source awards which precluded effective price competition. Several of these awards were made to former agency employees. (See p. 14.)

- A significant number of contract modifications resulting in increased costs and delays in delivery of the end product. (See p. 22.)
- Questionable use made of end products. (See p. 10.)
- Inaccurate reporting of consulting service contracts caused in part by confusion over the Office of Management and Budget definition for such contracts. (See p. 26.)

GAO also found significant spending for consulting services in the final quarter of the fiscal year, adding further doubt as to the need for the services. GAO also found that agencies often attributed their need for the services to various legislative mandates.

#### RECOMMENDATIONS

GAO recommends that the Director of the Office of Management and Budget should instruct Federal agencies to establish more rigorous procedures for approving consulting service contracts. Such procedures are necessary to assure the proper use of consulting services. One approach might be to establish an independent board within each agency or expand the functions of sole-source boards. The purpose of these boards would be to:

- Assure that in-house capability is adequately considered and assessed prior to award of contracts.
- Assure that the service is needed in terms of agency mission and established priorities.
- Assure that previous similar efforts have been adequately considered prior to award.
- Evaluate the necessity of using previous agency employees in performance of the contract tasks.
- Determine the reasonableness of using cost-plus-fixed-fee contracts in view of the nature of the proposed work.

In addition, GAO recommends that the Director of the Office of Management and Budget:

- Work with the Congress to achieve a better and more uniform understanding of the current definition of consulting services in terms of coverage and clarity as well as congressional needs. Also, a focal point should be established within the agencies to be responsible for determining which contracts meet the definition of consulting services.
- Intensify oversight on agencies' use of consulting services, including assuring that all agencies are moving as rapidly as possible to report those services to the Federal Procurement Data Center.

#### AGENCY COMMENTS

At the request of the Chairman, Subcommittee on Human Resources, House Committee on Post Office and Civil Service, GAO did not obtain official written agency comments.



CHAPTER 1  
A PERSPECTIVE--CONSULTING SERVICES IN  
THE FEDERAL GOVERNMENT

The use of consulting services in the Federal Government is extensive. However, there currently is no single reliable source for information as to how many consulting service contracts are being used to supply goods and services to the Federal Government or how much it is costing. Various estimates place the cost of consulting services between \$1 billion and \$2 billion. This cost, however, may be substantially understated because these estimates are based on the Office of Management and Budget's (OMB's) definition of consulting services. We believe that the definition is subject to much interpretation. (See ch. 5.)

Consulting services are used by Federal agencies for a variety of reasons, such as organizational deficiencies in technical knowledge or comprehension, a desire for an independent opinion, need for specialized training, lack of organizational experience, and insufficient personnel.

The Federal Government's use of consulting services is currently a subject of congressional interest as well as public interest. Much has been written and said concerning their extensive use. The various abuses in using consultants which are often cited are:

- The work of consultants, in many cases, has no useful impact on agency operations.
- The rush by agencies to expend remaining funds in the fourth quarter.
- Use of nonnegotiated and sole-source contracts which violate the spirit of competition.
- Revolving door abuses whereby former Government employees may be given preferential treatment in obtaining a contract.
- Inefficient, ineffective, and improper monitoring and evaluation of contracts and contractors by Federal agencies.
- Use of consultants to perform work of a policymaking or managerial nature which should be done by agency officials.

--Repeated contract extensions which raise questions as to whether the work might be performed under other types of arrangements.

#### THE PRESIDENT'S CONCERN

The foregoing potential abuses prompted the President to issue a memorandum on May 12, 1977, declaring that he had become aware "\* \* \*" of a need for improved management of the excessively large volume of consulting and expert services used by the Federal government." The President was concerned that consulting services were being used excessively, unnecessarily, and improperly.

As a result of the President's concerns, OMB issued Bulletin No. 78-11, Guidelines for the Use of Consulting Services, dated May 5, 1978. This bulletin established policy and guidelines to be followed by executive branch agencies in determining and controlling the inappropriate use of consulting services obtained from individuals and organizations. (See app. I.)

The bulletin established the following definition for consulting services:

"\* \* \* those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management."

#### Management controls

The bulletin established several management controls to be followed by each agency to assure, among other things, the following:

- Every requirement is appropriate and fully justified in writing.
- Work statements are specific, complete, and specify a fixed period of performance.
- Contracts for consulting services are competitively awarded to the maximum extent practical.
- Appropriate disclosure is required of and warning provisions given to the performer(s) to avoid conflict of interest.

## C o n t e n t s

		<u>Page</u>
DIGEST		i
CHAPTER		
1	A PERSPECTIVE--CONSULTING SERVICES IN THE FEDERAL GOVERNMENT	1
	The President's concern	2
	Management controls	2
	Reporting of consulting services	3
	Scope and methodology	3
	Overview	4
2	QUESTIONABLE NEED FOR MANY CONSULTING SERVICE CONTRACTS	6
	Failure to consider in-house capability	6
	Unsolicited proposals	9
	Last quarter spending	10
	Questionable use of results	11
	Relationship of congressional interest to consulting service contracts	13
3	CONTRACTING PRACTICES	15
	Sole-source contracting	15
	Nature of contracts used may result in excess costs to Government	17
	Use of cost-plus-fixed-fee contracts	18
	Use of task order contracts	18
	Former employees--is it a problem?	19
	The use of consultants by consul- tants	21
4	CONTRACT MODIFICATIONS AND UNTIMELY DELIVERY OF RESULTS	23
	Modifications unrelated to original contract	25
5	CONFUSION EXISTS OVER WHAT IS A CONSULTING SERVICE	27
	How is the OMB definition working?	27
	Need for better understanding of the definition	28

		<u>Page</u>
CHAPTER		
6	CONCLUSIONS AND RECOMMENDATIONS	32
	Recommendations	32
	Agency comments	33

APPENDIX

I	OMB Bulletin No. 78-11, Guidelines For the Use of Consulting Services, dated May 5, 1978	34
II	Summary of questionable areas in each contract reviewed	42

ABBREVIATIONS

COTR	Contracting Officers Technical Represen- tative
CPFF	cost-plus-fixed-fee
DOC	Department of Commerce
DOE	Department of Energy
DOL	Department of Labor
DOT	Department of Transportation
FPDS	Federal Procurement Data System
GAO	General Accounting Office
HUD	Department of Housing and Urban Development
OE	Office of Education
OMB	Office of Management and Budget

--Consulting service arrangements are properly administered and monitored to ensure satisfactory performance.

In addition to the foregoing, each agency was required to establish specific levels of delegation of authority to approve the need for use of consulting services. Specifically, approval is required at a level above the organization sponsoring the activity.

#### Reporting of consulting services

The bulletin required that agencies submit a one-time report to the Office of Federal Procurement Policy, OMB, on June 30, 1978, for each type of consulting arrangement in effect. On May 22, 1979, OMB published the results which showed a net decline in the use of consultants and experts by agencies during the period June 30, 1977, through June 1, 1978. As of June 1, 1978, agencies reported only \$500 million for consulting service arrangements as compared to the \$1.8 billion reported June 30, 1977. This large elimination, however, was not due to an actual reduction, but by other factors, including the change in the definition. The actual reduction was only 11 percent, or about \$200 million.

The bulletin also required agencies to provide information on procurement contracts for consulting services to the Federal Procurement Data System (FPDS). This data was to be provided by October 1, 1978. As of September 1979 several agencies still have not fully reported this data.

#### SCOPE AND METHODOLOGY

The purpose of our review was to assess the effectiveness of the management controls within each agency over the use of consulting service contracts. Specifically, we were guided by the concerns expressed in a letter to us from Congressman Herbert E. Harris, II, Chairman of the Subcommittee on Human Resources, House Committee on Post Office and Civil Service and the management controls outlined in the OMB Bulletin No. 78-11.

The review was conducted from July 1979 to February 1980 and was performed at the Washington headquarters offices of the Department of Energy (DOE), Department of Commerce (DOC), Department of Transportation (DOT), Department of Labor (DOL), Office of Education (OE), and the Department of Housing and Urban Development (HUD). The review included an examination of the procurement files, management studies, and other

documents, as well as discussions with procurement and program officials.

A total of 111 contracts, valued at \$19.9 million, were reviewed. In the selection of contracts for review, emphasis was given to what the agency classified as meeting the criteria of the OMB definition. We could not, however, determine the universe of all such contracts because several agencies had not yet classified all of them. We selected 36 contracts, valued at \$5.9 million, for review which were classified by the agencies as meeting the OMB definition. In addition, we selected 75 contracts, valued at \$13.9 million, which were not classified as consulting services by the agencies. Of the 111 contracts selected, 73, valued at \$11.4 million, were awarded subsequent to the date of the OMB bulletin of May 5, 1978. The examples shown in this report illustrate various contractual problems. Some examples are from contracts classified as consulting services, and others are from study-type contracts not classified as a consulting service.

As will be discussed in chapter 5, we could not determine the universe of consulting service contracts. Therefore, we were unable to assess the significance of our sample in terms of the overall universe. We do believe, however, that the results of our review are indicative of problems at most Federal agencies because (1) at all six agencies reviewed the same problems were found and (2) these problems were found, to varying degrees, in almost every contract reviewed. (See app. II.)

#### OVERVIEW

We have found weaknesses in agencies' controls over and use of consulting service contracts. Among the issues this report addresses are:

- Questionable agency requirements for consulting service contracts, including the impact of congressional legislation on the use of these contracts by the agencies.
- Extensive use of sole-source contracting and the involvement of former Government employees in such awards.
- Significant numbers and amounts of contract modifications as well as untimely delivery of end products.

--Inaccurate reporting of consulting service contracts and the need for a better understanding of the OMB definition of consulting services.

This report contains several recommendations addressed to OMB. We believe the issues are significant enough to warrant immediate action.

## CHAPTER 2

### QUESTIONABLE NEED FOR MANY CONSULTING SERVICE CONTRACTS

We believe there may be a questionable need for many consulting service contracts because (1) there is little or no consideration given to in-house capability prior to award of the contracts, (2) proposals are frequently unsolicited, thereby casting doubt upon the needs of the agencies in terms of their self-determined direction, (3) a number of contracts are awarded during the last quarter of the fiscal year which might cast doubt on agency priorities and mission, and (4) frequently little use is made of the results of the study products.

In addition to the foregoing, we found many contracts could be related to congressional legislation requiring the performance of various studies, agency testimony, and/or reports. The issue raised here is whether the Congress is fully aware of how agencies are implementing and conforming to various legislative mandates placed upon them.

### FAILURE TO CONSIDER IN-HOUSE CAPABILITY

At several agencies reviewed we found little consideration given by program officials to adequately assess whether in-house personnel could provide the needed service. Program officials made little effort to rank the priorities of various contracts for projects with the importance of the in-house work that agency employees were doing.

In 80 (72 percent) of the 111 contracts we reviewed, agency justifications for contracting out cited either a lack of agency resources and/or lack of agency expertise to perform the contract. In other cases, the urgency of the need was cited as a factor in the decision to contract out. In several others, the question of in-house capability was not even addressed. In many of these cases, the function contracted out should have been, in our opinion, within the capability and mission of the agency.

The following are some examples of contracts which, in our opinion, illustrate questionable contracting out.

- An OE contract for \$71,425 to develop a system to determine crucial issues in postsecondary education. Contract tasks were to (1) analyze current literature, speeches, and so forth to identify important issues

and (2) analyze inquiries for educational information received at the agency and classify by source and issue. Prior to award of this contract, an agency task force identified issues relating to postsecondary education, but the officials thought that a "system" needed to be developed to identify these issues. However, the contractor's end product was considered to be of poor quality by the project officer, and key issue areas are now being identified by in-house personnel.

- An OE contract for \$17,416 to provide "management" for a conference sponsored by the agency. The management consisted of (1) making travel arrangements for consultants to attend conferences, (2) providing audiovisual equipment, (3) scheduling meeting rooms, and (4) arranging for reproduction of various publications. Agency officials said that these functions could not be handled by in-house personnel.
- A HUD task order award for \$24,500 for a research design for evaluation of a specified program's activities in nonmetropolitan areas. The procurement request justifies contracting on the basis that "\* \* \* in-house manpower and technical expertise (is) not available." The work described in the task order was subsequently performed by in-house staff, while the contractor did other work. According to the Contracting Officer's Technical Representative (COTR), three in-house staff members were capable of doing such work. Program officials said that the decision to shift to in-house staff resulted from discussions between the contractor and in-house staff.
- A DOE contract for \$29,947 for technical analysis and support for assessing the technology base. The tasks specified in the statement of work were (1) provide support for meetings such as agenda preparation, arrange the meeting, and take minutes, (2) prepare and maintain various reports by abstracting from technical and programatic documents and reports, and (3) provide assistance in maintaining project planning documentation. A program official said that the primary thrust of the contractor's effort under this contract was typing support because the agency did not have sufficient secretarial help.
- A DOC contract for \$25,000 for analysis, advice, and recommendations on the development of a Floating Department Store. After the contractor was

interviewed by the Deputy Director of the responsible Bureau, it was determined his experience was crucial to the project's success. The additional justification for the contract stated "\* \* \* this type of expertise is also not available from in-house sources." The program officials agreed to an early termination of the contract and recommended the contract be reduced by \$18,109. The officials stated the contractor's work was inferior to that of the in-house staff and the remaining effort would be completed by in-house staff and volunteers from industry.

--A DOL contract for \$78,330 to provide an agency with personnel classification survey. The work done by the contractor consisted of routine "desk audits" of the agency staff positions. According to an agency official, a contractor was needed to do the work because the in-house staff was not trained and/or capable of doing the work. However, the official said this work was of a regular and recurring nature which should have been done by in-house staff. The contract was subsequently terminated because agency officials felt the in-house staff had the capability to perform the work.

In addition to the foregoing examples, we noted three contracts at DOE, with an aggregate value of \$478,070, for performance of clerical functions such as maintenance of a contract forms room, typing, stamping contract folders, and duplicating contract files.

At DOL an internal management memorandum dated in January 1979 on the use of consulting services identified a major area of concern related to outside consulting arrangements awarded for jobs that could have been performed in-house. The study identified 17 arrangements in effect on June 1, 1978, valued at \$1,256,537, which could have been performed in-house. Between January 1979 and the start of our review at the agency in December 1979, we found that management had taken little action to address the problem. Our review at this agency has confirmed that the situation still exists.

Little or no formal effort is made to assess in-house priorities in relationship to the urgency of need for a particular service which is contracted out. In our review of the contract files, we found little evidence that in-house capability was adequately considered. In fact, in several files reviewed, we found no evidence that in-house capability was even considered.

In our opinion, the foregoing practices preclude an informed decision on how best to use existing resources and whether the consulting service was even necessary.

#### UNSOLICITED PROPOSALS

Of 111 contracts reviewed, 20, valued at \$2.7 million, were unsolicited. The contract files for most of these show that the award appeared to result from the contractor's unique experience with and/or knowledge of the particular agency. While unsolicited proposals for improving governmental functions should be encouraged, we believe that they should be carefully reviewed in the context of agency needs and their overall contribution to agencies' missions.

The following are examples of unsolicited proposals:

- An OE proposal to study minority language groups in the United States and the relation between the economic advantages of speaking English and the extent which these groups have shifted to speaking English because of the economic advantage to doing so. This contract was awarded on September 28, 1978, and its total current value is \$78,494. An agency official could not cite any immediate practical applications of the study, but did say that it has relevant long-range policy implications.
- A DOC contract awarded for \$36,000 resulting from an unsolicited proposal to prepare a series of technology transfer bulletins, assess this method of technology transfer, and recommend alternatives. Program officials said, but could provide no documentation, that technology information was requested by the industry at meetings with the Division Director. Additionally, the COTR said that the information contained in the bulletins was obtainable prior to the issuance of the bulletins, though the process could be cumbersome. Before the assessment was completed, the contract was modified to continue with the bulletins. The modification doubled the cost and period of performance.
- A DOC contractor who had a previous affiliation with the agency proposed to demonstrate the technique he had helped develop under a previous contract. The agency's interest was renewed and a contract totaling \$69,150 to perform a demonstration project for private industry was awarded. The participants disagreed strongly about the need for the system demonstrated and the project came to an end.

--A DOT contract in the amount of \$200,000 was awarded to a contractor to identify improvements in the agency's organizational effectiveness and management controls. The contractor had submitted an unsolicited proposal after a meeting with the agency head at which his objectives for strengthening the agency's organizational structure were discussed. The circumstance, we were advised, was that the contractor's representative was an industry acquaintance of the agency head. The contract justification cited the contractor's unique ability and time urgency. This contractor, in our opinion, is not the only contractor who can do organization studies.

#### LAST QUARTER SPENDING

Considerable spending activity in the fourth quarter of the fiscal year was found at all agencies reviewed. As previously stated, we randomly selected 111 contracts valued at \$19.9 million for review. Of those, 57, valued at \$10.7 million (54 percent), were awarded in the last 90 days of the fiscal year. The procurement request, in 20 or 35 percent of these 57 contracts originated in the last quarter. We believe that such awards can cast doubt on the legitimacy of the agencies requirements for the contract service. Examples of last quarter spending where procurement request and award were made in the last quarter follow.

--A DOC contract for \$129,419 was awarded on the last day of the fiscal year. Though the work under this contract was initially designed by agency personnel, the decision was made to contract out. The COTR said the work could and should have been performed in-house.

--A OE contract for \$123,006 was awarded on September 30, 1978, to analyze the effects of postsecondary schooling on one's attitudes to the self. Responsible program officials said that the project initially was considered a marginal award, but was made when another project fell through and funds became available.

--A DOC contract for \$146,320 to organize data collected during a project several years previously was awarded on the last day of the fiscal year. This contract was the result of an unsolicited proposal by a firm whose officers participated in the previous project.

--An OE contract for \$98,700 was awarded to fund an unsolicited proposal requesting the agency's support for the final phase of a study of schooling in the United States. This study was initiated in 1974 and was formerly supported by private foundations. The agency was requested to support the analysis and reporting of the data collected since 1974. Agency officials acknowledged that parts of the study would not have any meaningful relevance to the agency's mission, but stated that the project was funded primarily because a surplus of funds existed at the end of the fiscal year.

Regarding contract awards in the last quarter, and more specifically to awards in the last month of the fiscal year, we found that agencies can act very swiftly. For example, in one HUD contract the period between the deadline for proposals and the actual award date was 21 days. During this period, 12 proposals were reviewed and the contract was awarded. This agency had an average period of 3.6 months for the contracts reviewed between procurement request and contract award. The "rush" to award contracts can seriously impair the objectivity as well as thoroughness of the proposal evaluation process.

#### QUESTIONABLE USE OF RESULTS

Of the 60 completed contracts reviewed, valued at \$9.1 million, we found 20 contracts, valued at \$2.2 million, to be of questionable and/or marginal value to the agencies. Also, some of the uncompleted contracts have potential questionable value. It should be noted, however, that in several cases it was very difficult to discern whether or not the study was used or had any value in enhancing the agency's mission. The following are some examples of what we believe are studies of highly questionable usefulness to the agencies reviewed:

--A DOL sole-source contract awarded for \$99,985 as a follow-on to a \$59,258 grant. The grant resulted from a "discussion paper" submitted to an Assistant Secretary. Program officials said that the grant statement of work and the tasks of the contract were essentially written by in-house staff. The project officer said that (1) the products of the contract would have "limited value" at best, (2) the contractor has indicated one task would not be performed, and (3) another task's product would be delivered late. This contract has recently been modified

to extend performance and increase funding by \$100,000 to continue one task and add another.

- A DOE contract for \$343,834 for comprehensive analysis of issues regarding resource development on Indian reservations. In the contract justification statement, the agency stated that reports generated by this study would help the agency in policy development. Program officials could not specifically explain or document any use made of the contract results by the agency.
- A DOT contract for \$150,000 for an analysis of the economic impact of proposed regulations. The study is being made to provide information for the research analysis required by an executive order. The analysis was intended to be available to the public during the period the proposed regulations were open to public comment. However, the contractor did not start work on the study until after they were published, and the study was not completed until after the close of the public comment period.
- A DOE contract for \$27,000 awarded on a sole-source basis because of time exigency for testimony relating to a regulatory proceeding. The testimony, however, was never filed because the agency head thought that the contractor was defining Government policy, and that should have been the agency's responsibility.
- A DOC unsolicited proposal for \$32,155 from a university to conduct seminars and write research papers on various international trade topics. Contracts have been awarded for the same subject since 1976. The COTR could provide no evidence as to the usefulness of the seminars or the value of the research papers. The papers are merely distributed to persons requesting copies.
- An OE contract for \$324,876 for leadership training for 25 selected Teacher Corp members such that upon completion of training the members will continue and be more effective in their educational communities, primarily low-income areas. Though a part of the cost is for development of the training, the award amount translates into \$12,995 per trainee. This is a follow-on to a 5-year contract for the same purpose and permits up to five yearly options. However, according to the COTR, no assessment has been made during this 6 years to determine if the training

is effective or if the trainees/participants remain in the targeted low-income area or in education at all. An option for the second year of funding has been exercised, bringing the total contract amount to \$589,866.

RELATIONSHIP OF CONGRESSIONAL INTEREST  
TO CONSULTING SERVICE CONTRACTS

At all agencies reviewed, we found a significant number of contracts that were awarded in response to congressional interest. In the 111 contracts reviewed, we found 34, valued at \$6.8 million, could be related in one way or another to congressional interest. Although there was generally no expression as to whether it was intended that in-house agency personnel perform the work to meet the requirements, the agencies have elected to contract out the various requirements. We believe that the Congress may not fully realize the relationship of various congressional initiatives to the procurement of consulting services by Federal agencies. These requirements range from presentation of testimony on specific programs to annual status reports on various programs.

Some examples follow:

- An OE contract for \$59,263 awarded to conduct a study on the need for bilingual education programs in the Commonwealth of Puerto Rico. This contract was awarded using funds made available from the Bilingual Education Act, which mandates the study. The contract was awarded on September 28, 1979.
- A HUD contract for \$135,254 for consultations with elected local Government officials on the implementation of regulatory standards. The procurement was made in response to a law which directed the agency Secretary to consult with appropriate public officials and organizations of public officials in developing and promulgating such standards.
- A DOT contract for \$134,070 to evaluate the State Rail Program established under the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976. The need for an evaluation of the program was suggested by a congressional subcommittee.

--A DOT contract for \$24,365 for an impartial reassessment of an agency rule. The study was made in response to proposed legislation challenging the agency rule. However, the proposed legislation included provision for a study of the matter by a more appropriate Government agency.

--A DOC contract for a comprehensive review of certain regional service offices was awarded in response to a Senate Committee on Appropriation's report stating that "It would appear that some of these offices are marginal operations and the Committee will be open to a comprehensive review next year \* \* \*." A \$156,620 contract was awarded on a limited competition basis so that the study could be completed for the appropriation hearings estimated by the agency to be scheduled 3 months from award date. The hearings were held earlier than anticipated, and only an executive summary of the contractor's work was submitted. After the hearings, however, the contract was modified as a result of the contractor's unsolicited proposal to significantly expand the scope of work, extend the period of performance, and increase total costs by \$89,262.

In addition to the foregoing, we found examples of end products which did not identify whether a contractor prepared them or how much they cost. In one of these cases, the report was provided to the Congress. We believe such identification would aid the Congress in assessing the value as well as the objectivity of various reports submitted pursuant to legislative requirements.

CHAPTER 3

CONTRACTING PRACTICES

The methods and procedures used in contracting for consulting services at all agencies reviewed do not provide assurance that adequate competition is obtained nor that controls exist to minimize costs. Also, many contracts involve former agency employees. Such contracts raise questions as to the agency's maintenance of in-house capability in various areas of expertise and may create potential problems relating to the objectivity of the services performed. Also, we found significant use of consultants by prime contractors.

SOLE-SOURCE CONTRACTING

We found sole-source contracting to be prevalent at all agencies reviewed. Of a total of 111 contracts, valued at \$19.9 million, 74 (67 percent) totaling \$12.1 million were sole source. The following table illustrates the degree of sole-source contracting.

Sole-Source Contracting at the  
Six Agencies Reviewed

<u>Type of award</u>	<u>No. of contracts</u>	<u>Total value of contracts</u>	<u>Percent</u>	
			<u>No.</u>	<u>Value</u>
Sole source	74	\$12,139,565	67	61
Competitively awarded (proposals solicited)	<u>37</u>	<u>7,740,989</u>	<u>33</u>	<u>39</u>
Total	<u>111</u>	<u>\$19,880,554</u>	<u>100</u>	<u>100</u>

Of 73 contracts, valued at \$11.4 million, awarded subsequent to the OMB bulletin, we found 49 (67 percent), valued at \$7.2 million, were sole source. The bulletin provides that contracts for consulting services should be awarded competitively to the maximum extent practical.

Of the 111 contracts reviewed, 64, valued at \$10.8 million, were justified on the basis of unique contractor expertise, previous contractor experience with the agency, and/or time exigency. Some examples follow.

--A DOT contract for \$234,975 to develop a management plan for the replacement of a complex computer system. The contract was a sole-source award because the contractor " \* \* \* is the only organization with

in-depth expertise in management planning for large scale systems as well as expertise in current and projected computer hardware/software technology that does not have a vested interest in computer hardware, computer software, or both." The sole-source justification goes on to say that other contractors have some of the required attributes but not all of them. Our discussion indicated that this was based on a program official's limited informal inquiries and research regarding other firms in the industry. While this is all well and good, it does not replace formal competition within the industry for eliminating those firms not having the requirements necessary for successful performance of the work.

--A DOE contract for \$1,480,455 to continue planning and evaluation assistance to the agency. The justification for sole source stated that the proposed effort is a consolidation and continuation of existing effort under two previous contracts. Regarding the contractor's exclusive capability, the justification stated that "no other contractor is familiar with and experienced in the basic planning studies and assessments needed \* \* \*." Also, "\* \* \* no other contractor could reasonably be expected to develop the required level of familiarity necessary to perform the work without expending significant costs and introducing unacceptable delays." In essence, the contractor has bought into a long and friendly relationship with the agency.

--A HUD contract for \$49,650 was awarded to analyze the grant and contract operation in a program and make recommendations for improvement. The contract was sole source and justified based on an immediate need and the fact that the consultant services required are highly specialized and require a unique expertise. The contractor's expertise was a combination of general experience in numerous aspects of law and by virtue of the specialized expertise of several of its partners. However, 57 percent of the contract cost was for subcontractor efforts.

Specific examples follow of contracts justified on time exigency, but were not delivered as scheduled.

--A DOC contract for \$224,045 to study a program. The study was due in July 1977. After contract modification, the final product was delivered in March 1979.

--A DOT contract for \$19,878 to do background analysis for possible regulatory reform. The sole-source award was justified on the basis that the product should be available to the Congress by January 1979. A program official said that the delivery date of the final product had been extended to December 15, 1979, since the Congress showed no initial interest in the study and " \* \* \* the consultant had other work." Also, it's interesting to note, that several other firms were interested in doing the study.

--An OE sole-source contract for \$24,975 to develop a manual for schools and lenders to serve as a practical working reference on the policies and procedures for a loan program. The sole-source justification stated that the contractor was the only firm which could produce the manual to meet tight time constraints. The manual was to be available for the fall semester of 1978. In October 1978 the contract was modified extending the period of performance to December 1978. Obviously, the contractor did not make it.

--A DOL contract for \$72,033 to assess the factors determining the availability of domestic workers for a certain type of labor. The justification says that "this sole source request is a vital project 'recontracting' action \* \* \* because of the specialized nature of the work involved, and the impending need for the results of this study to support \* \* \* testimony in litigation and Congressional hearings over the next six months \* \* \*." The contractor has requested and been granted a 2 month or a 29 percent time extension so that he could perform other work with the agency. The COTR said that no litigation is in progress nor has there been testimony on this subject.

NATURE OF CONTRACTS USED MAY RESULT  
IN EXCESS COSTS TO GOVERNMENT

We found that the nature of the contracts used for consulting-type services at the agencies reviewed were not conducive to minimizing costs, and, in some cases, could contribute toward obtaining unneeded or unnecessary studies.

### Use of cost-plus-fixed-fee contracts

In 54 of the 111 contracts reviewed (49 percent), a cost-plus-fixed-fee (CPFF) contract was used to procure the consulting-type services. A CPFF contract is a cost-reimbursement type of contract which provides for the payment of a fixed fee to the contractor irrespective of the allowable and allocable costs incurred by the contractor. The fee (profit) dollars can change only when the scope of the work under the contract changes (or pursuant to a modification or change order). Under a CPFF contract, the contractor has little incentive to reduce costs.

Usually the CPFF contract is used where dollar amounts are large, the work specifications cannot be defined exactly, and the uncertainty involved in performance are so great that neither a firm nor an incentive arrangement can be established during the life of the contract. For the contracts reviewed, we found the justification for using a CPFF contract was "boilerplate" in nature and was generally based on a determination that the performance of the work involved such uncertainties that the cost of contract performance could not be estimated with any reasonable degree of certainty that would permit the use of any type of fixed-price contract.

A typical example of a justification for use of a CPFF contract is:

"The exact nature and extent of the work covered by the proposed contract and the precise method of performing that work can not be established in advance \* \* \*."

As one way to reduce overall contract costs on large dollar value projects, agencies might consider using CPFF contracts for very nominal amounts of money so a proposed contractor(s) will more clearly delineate the requirements of the particular project. Once this is accomplished, a firm-fixed-price contract could be awarded to accomplish the project. This approach, although it involves two steps, might reduce overall costs to the Government and contribute to less contract cost modifications and time extensions.

### Use of task order contracts

At most agencies reviewed, we found that task order contracts were being used. A task order contract is basically an indefinite contract which provides that the contractor

will perform a specified range of effort for various tasks which the agency may wish performed during the period of the contract. As the agency wants work performed, a task order is issued to the contractor. One of the reasons these types of contracts are used is that they are less time consuming because the basic contract is already in existence and all that is required is issuance of a task order without soliciting and evaluating proposals.

In our opinion, this type of contract violates the spirit of competition in that the basic contract is awarded on a technical proposal which addresses a hypothetical situation. Subsequent task orders issued under the contract may or may not be similar in nature to the hypothetical situation upon which perspective contractors were evaluated from a technical standpoint. Given the variety of tasks which arise under these contracts, the Government cannot be assured that (1) the best qualified contractor is performing nor (2) the most advantageous price for the work was obtained.

In addition to the foregoing, we found several other problems associated with the task order-type of contract. For example, at HUD we noted a contract with at least 51 separate task orders issued with cumulative value in excess of \$16.6 million. We did not review this contract in total.

#### FORMER EMPLOYEES--IS IT A PROBLEM?

During our review we identified several cases where former agency personnel were involved with the performance of contracts. This involvement either consisted of the former employee having a contract with the agency, being employed by a contractor, or being under subcontract to the prime contractor. While these situations do not in themselves represent a conflict of interest, they do, in our opinion, raise questions as to (1) the need for agencies to bring back former employees to perform functions similar to those that the employee performed while employed when in-house staff might have performed these functions, (2) the objectiveness of any study performed by a former employee in areas where he was formerly involved while employed at the agency, and (3) the degree of influence used, if any, by former agency employees in obtaining contracts with their former agency.

Some examples which, in our opinion, raise some of the foregoing questions follow.

--A DOC contract awarded to a part-time employee on the basis of extensive knowledge in area (for

example, employee has had a consultant personnel appointment every year since January 1976). Our computations show that the Government would have saved approximately \$8,000 if the work which was contracted for had been performed at the rate the individual was paid under the personnel appointment.

- In another case, a retired DOC employee has been awarded a succession of seven contracts since March 1975. All contracts were sole source on the basis that no other known contractor had sufficient background. We have some evidence that the contractor supervised Government employees as well as performed work that she was performing prior to her retirement. The total value of all contracts awarded was approximately \$76,000.
- A DOT task order to a Basic Study Agreement for \$136,212 for a study on the economic consequences of proposed changes to an agency's regulations. Included in that amount was \$35,622 for a subcontract to a firm whose president was the recently departed division chief within the office which had requested the study. This former employee had also been proposed as a consultant on two earlier orders at \$375 per day for 9 days.
- A DOE contract for \$74,261 to analyze and provide a treatise on an act. The contract was awarded to a former employee of the agency. The purpose of the treatise was to provide a training device for new attorneys. The agency general counsel thought it essential that the treatise be developed and that this contractor was the sole source to perform the work because he was free of any conflict of interest. The key question to be answered is why wasn't this task performed prior to the former employees' departure from the agency if it was so important?
- A DOT contract for \$25,000 was awarded for a study of the alternative institutional arrangements for providing financial assistance to a federally supported service. The contractor's project manager was the former Chief Counsel of the agency. He was the only professional staff to work on the project. The contractor's unique capability was based entirely on staff resources; namely the past Chief Counsel. The contractor had completed two of the four tasks required under the contract and billed the agency 27 days before the contract was signed. After the

submission of the draft study, it was determined that this subject would not be used for its intended purpose. At the time of our review, there had been no specific use of the study by the agency.

#### THE USE OF CONSULTANTS BY CONSULTANTS

We found 53 contracts, valued at \$9.6 million, which had provisions for the use of other consultants. The estimated value of such use was \$3.3 million. In the majority of instances, these contracts were awarded on a sole-source basis because of the unique experience of the prime contractor. However, we found several instances where the contractor was relying extensively upon other consultants to perform much of the work. This raises questions relating to the expertise of the prime contractor at time of award, as well as the agency's procedures and methods for justifying sole-source contracts on the basis of unique contractor experience. Specific examples follow.

- An OE contract for \$71,000 to study regional educational service agencies. A sole-source award was justified on the basis that the contractor " \* \* \* is the only firm that can reasonably and economically meet the contract requirements." A program official said that the sole-source justification was written by the contractor. On top of this, over \$55,000 (78 percent) of the contract cost was subcontracted with the subcontractor's statement of work essentially the same as the prime contractor's.
- A DOE contract for \$453,581 awarded for an assessment of industry research and development activities. Included in the contract cost was a subcontract for \$299,600 (60 percent) of contract cost for performance of essentially the same work as specified in the original contract. Program officials said that the subcontractor performed the "detailed work" and the prime contractor performed in a supervisory role and "opened" doors to obtain the data required under the contract. Justification for sole source stated that the prime contractor could successfully perform.
- A DOL contract for \$140,444 for an organizational and management analysis of several agency activities. Included is \$47,000 to a subcontractor for professional services in performing the analysis.

--A DOC contract for \$150,000 was awarded based on the contractor's unique qualifications. The effort, however, was performed by a nonprofit subcontractor and by consultants, and the costs were passed on to the Government with a 3.2 percent fee added by the prime contractor.

CHAPTER 4

CONTRACT MODIFICATIONS AND

UNTIMELY DELIVERY OF RESULTS

Modifications to contracts reviewed were commonplace. These modifications increased scope and cost and extended the period of performance in almost all of the contracts. We found that modifications were made in 70 (64 percent) of the contracts we reviewed. The following table shows the results of our review.

<u>Original contract value</u>	<u>Total number of modifications</u>	<u>Total dollar value of modifications</u>	<u>Total cumulative contract value</u>	<u>Percent of dollar increase in contract value</u>
a/\$10,919,374	192	\$4,652,009	\$15,571,383	43
b/ 15,228,545	192	4,652,009	19,880,554	31

a/Value of contracts which were modified.

b/Total value of all contracts reviewed.

The reasons for the modifications are shown in the table below.

<u>Category</u>	<u>No. of contracts (note a)</u>	<u>No. of modifications (note a)</u>
Work scope, cost, and period of performance	30	39
Work scope	18	22
Cost	25	37
Period of performance	45	69
Other (for example, administrative such as change in COTR)	32	58

a/Figures may be duplicated because a contract or modification may relate to more than one category.

As a result of the modifications, the delivery of end products was frequently not accomplished within original contract time frames. Of the 111 contracts reviewed, 58 (52 percent) were not completed within the originally specified time period. Delays in the delivery of end products for contracts extended ranged from 1 month to 40 months. The following table breaks down the range of delays for the contracts reviewed.

Months of Delay/Number of Contracts

<u>0</u>	<u>1 to 5</u>	<u>6 to 10</u>	<u>11 to 15</u>	<u>16 to 20</u>	<u>21 to 25</u>	<u>26 to 30</u>	<u>31 and over</u>	<u>Total</u>
a/53	26	9	13	5	3	0	2	111

a/Includes 28 contracts for which specified period of performance had not expired at the time of our review. Consequently, we do not know whether delays will be experienced on any of these contracts.

Regarding the modifications which increased work scope, cost, and period of performance, we believe the use of a CPFF contract was a contributing factor. The use of this type of contract has made it much easier for contractors as well as the agencies to revise and expand initial proposals and estimates after contract awards.

The following examples illustrate contract modifications for cost increases and extended periods of performance.

--A DOT contract was initially awarded for \$94,250. Modifications increased the contract amount by \$210,183. The contract was for a study and overall assessment of current programs and the development of new programs regarding an industry. The work was to include answers to certain critical questions posed by the agency. In performing the study, the contractor revised the questions, expanding them considerably, and held informal discussions with various members of the industry. The contract was modified to cover overrun costs incurred in the initially contracted study and the costs of the expanded study to include an industry-wide conference and group to study the revised questions.

--A DOT contract initially for \$59,642. Modifications increased the contract amount by \$127,927. The study was originally intended to be an overview evaluating Federal and State regulations and other economic and

technological operations of an industry. The contract was increased by \$37,946 to provide in-depth analyses and consultation with the agency in connection with recommendations made to a White House task force on the industry. The contract was increased again by \$89,981 to revise the overview report and for additional studies concerning other aspects of the industry.

--A HUD task order for \$28,543 was modified three times, increasing cost by \$3,824 and extending delivery period by 5 months. The contract was closed without receipt of a product. A second task order for \$7,500 was subsequently issued to complete the work. The contractor satisfied his work requirement of the second task order 21 months after the due date of the original task order.

--An OE contract for \$160,947 to conduct a survey of recent college graduates. The survey was to be delivered to the agency in September 1978. The contract has been modified seven times increasing the cost to \$325,920--an increase of over 103 percent--and extending the delivery date by 11 months to August 1979. As of December 1979, the report still has not been completed. The results of the survey were to be incorporated into a report to the Congress in June 1979.

--A DOE sole-source contract to review, evaluate, and provide reports and advice to in-house staff in connection with hearings on the Trans-Alaskan Pipeline System, which is the responsibility of the agency. The contract, which is a continuation of a prior contract and purchase order for the same services, has been modified three times increasing the cost from \$55,500 to \$198,220 and the period of performance by 15 months (250 percent). A fourth modification to increase performance by 12 months and cost by \$115,000 was pending at the time of our review. Another aspect of this contract worth noting is that the hourly rate paid to the contractor has increased from \$22.33/hour in the purchase order to \$40/hour in the contract--a 79-percent increase over a 6-month period.

#### MODIFICATIONS UNRELATED TO ORIGINAL CONTRACT

We found instances where modifications were used work not contemplated in the original contract. U

modifications for these purposes thwarts the competitive bidding process and can result in the Government paying more than it should. At one agency, a program official said that modifications were used instead of the more formal and lengthy process of contract award. The official also said that modifications are frequently used in his office for this reason. Some examples of this practice follow.

--An original HUD contract for \$169,676 to provide seminars. Subsequent modification of the contract for \$24,100 provided seminars, the subject of which is unrelated to the seminars in the original contract.

--A DOE contract for \$1,425,238 for studies and reports on the environment and safety. The third modification to the contract for \$48,130 was for "extension service analysis support," which is unrelated to environment and safety.

## CHAPTER 5

### CONFUSION EXISTS OVER WHAT IS A

#### CONSULTING SERVICE

There is no reliable or complete data on the use of consulting services by Federal agencies. As a result, we could not determine the extent of use of such contracts in the Federal Government. We do believe, however, that the reported use of consulting services by Federal agencies is inaccurate and may be significantly understated. We also believe that the current OMB definition of consulting services is ambiguous and, consequently, may not be providing complete visibility over the use of consulting services by Federal agencies. In our opinion, the definition needs to be better understood.

#### HOW IS THE OMB DEFINITION WORKING?

Agencies are experiencing problems in reporting reliable and accurate data on consulting service contracts. There is considerable confusion as to what is a consulting service contract, and, as a result, we believe that the reported use of consulting arrangements is substantially understated.

In our opinion, the OMB definition, which is supposed to provide the criteria for reporting consulting arrangements, is a contributing factor with respect to the confusion. This definition as stated in Bulletin 78-11 is:

"\* \* \* those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management."

Also, the bulletin provides limited examples of the type of services covered and explains that such services are normally provided by persons and/or organizations who are generally considered to have knowledge and special abilities not available within the agency.

The fundamental problem with the definition is that it is vague and subject to interpretation and judgment. Although Federal agencies reported a \$1.3 billion elimination in consulting services between the periods June 30, 1977, and June 1, 1978 (for example, \$1.8 billion to \$.5 billion), only 11 percent of the reduction was attributed to an actual reduction in contracting activities.

At several agencies reviewed we found that (1) officials had different interpretations of the OMB definition, (2) the responsibility for reviewing and classifying contracts in accordance with the criteria of the OMB definition was at different organizational levels within each agency, and (3) the interpretation of the OMB definition varied from broad to narrow.

The OMB bulletin required Federal agencies to report consulting contracts to FPDS beginning in October 1978. Some agencies reviewed had not yet been able to establish a workable system for reporting consulting service contracts to FPDS.

At HUD we found that the internal coding structure designed to identify contracts by procurement description might conceal significant amounts of consulting service contracts. For example, there were 48 possible procurement description codes in use. One of these codes was for consulting services as defined by OMB. The computer printout for this code showed only 27 contracts valued at \$1,374,489. We found that study-type contracts were also included in the other 47 codes. These other codes included such areas as research program planning/management/evaluation, statistical analysis, and market analysis and surveys. The primary problem confronting the person(s) responsible for coding the contract is where to classify it. For example, a study-type contract in the areas of market analysis might be coded under the procurement description code for market analysis rather than consulting services; it cannot be coded as both in the system.

For some agencies we were unable to reconcile internally reported figures for consulting services with those which were reported to OMB. For example, at DOT's Federal Railroad Administration the internal figures were \$9.8 million, whereas those reported for the 1978 OMB report totaled \$4.2 million, or a difference of \$5.6 million. An agency official was also unable to reconcile the figures or provide a satisfactory explanation for the discrepancies.

#### NEED FOR BETTER UNDERSTANDING OF THE DEFINITION

The current OMB definition of consulting services has not, in our opinion, provided visibility and control over such arrangements. Although we participated in developing the definition, we believe that almost 2 years of experience have shown it ineffective in accomplishing its intended purpose.

Specifically excluded are commercial and industrial products and services and the conduct of research. Included are those governmental functions of agency administration and management. OMB officials said that the intent of the definition was to identify those consulting services which provide agencies the input for making policy, management, and program decisions.

Of the 75 contracts reviewed which were not classified as consulting service contracts, we believe many of them should have been. Some examples of contracts not reported as consulting services follow.

--A DOE contract awarded for \$48,565 for analysis of an agency's procurement regulations. The statement of work required the contractor to assess the information contained in each comment received on the draft regulations and to support either adoption or nonadoption of the comment. The final report was to include specific recommendations for revisions to the regulations.

--A DOC contract for \$25,000 for an analysis of market research reports, advise on the appropriate manufacturers and merchandising techniques, and recommendations of inventory requirements based on the contractor's experience.

--A DOT contract for \$88,685 for a study of the services provided by a program and their costs, including examining the cost impact of varying levels of services and recommending a pricing structure for the services.

--A DOL contract for \$98,044 for the development of organizational and operational models that will forecast the most efficient and effective program operations. The models were to be used in the consolidation of various agency activities pertaining to certain programs.

--An OE contract for \$403,536 to develop and test a system by which the life experiences of women can be assessed and accredited for entry into employment or placement into educational programs.

All six agencies had formal and/or informal procedures governing the procurement of consulting services. At four of the agencies, the OMB definition was being used. At two agencies the definition used was substantially broader in

scope than OMB's. For purposes of reporting to OMB, these agencies do not necessarily include all contracts which are encompassed within their own definition. For example, at one agency reviewed the internal definition of consultants is: "\* \* \* those persons (or firms) whose advice and counsel are sought on matters of Department interest." This definition is much broader than OMB's and, in our opinion, would include those program or evaluation contracts that are currently being excluded under the OMB definition. The chart on page 31, contains a comparison of the definition for contracted consulting services at the six agencies reviewed. As is evident, some are much broader than the OMB definition.

The contracts reviewed were not limited to contracts classified as consulting services in accordance with OMB standards. These problems extend to all types of program or evaluation contracts awarded by the agencies reviewed.

A major problem is the different views of consulting services within the executive and legislative branches. On the basis of our contacts with the Congress, we believe that congressional interest, as commonly expressed, over agencies' use of consulting services extends beyond the confines of the OMB definition in that it centers on the agencies' overall use of study-type contracts--not necessarily on whether such contracts will assist agencies in making policy, management, and program decisions. As a result, we believe that the apparent differing viewpoints over consulting services need to be resolved. We believe this to be especially important because agencies should have a clear understanding of what is expected of them by OMB as well as the Congress. Currently, this does not exist. For example, one agency reviewed is required to report consulting services quarterly using a broader definition to a Senate appropriations subcommittee and also report such services to the executive branch using the OMB definition.

In our opinion, the effective control over the use of consulting services by Federal agencies depends upon a commonality of understanding between the executive branch and the Congress over what is a consulting service and how best controls can be instituted over such services.



## CHAPTER 6

### CONCLUSIONS AND RECOMMENDATIONS

Our review has disclosed serious problems with six agencies' use of and control over consulting service contracts. It is our view that problems in the six agencies are probably common to most Federal agencies. These problems stem from agencies' failure to adequately consider in-house capability and priorities prior to awarding contracts; the apparent rush in many cases to spend available moneys during the last quarter of the fiscal year; the almost exclusive practice of sole-source contracting; and the extensive contract modifications increasing scope, cost, and period of performance.

Also, there is a problem in the interpretation of the current OMB definition for consulting services. As a result, we believe that complete visibility over the use of these type of contracts is lacking. It is apparent that the executive branch views the definition of consulting service contracts in a much more narrow way than does the Congress. This differing view needs to be reconciled before effective controls over consulting services can be initiated.

We believe that proper use of consulting services is a normal, legitimate, and economical way to improve Government services and operations. We further believe that Federal agencies must continue to have the option of using consultant services where appropriate.

Although considerable attention has been focused on the misuse of consulting service contracts in recent years, we found that there remains serious, pervasive problems. Until agencies' management, in cooperation with the Congress, takes the initiatives to establish controls over the need for and the contracting practices related to consulting service contracts, there will, in our opinion, be little or no improvement. We will issue a comprehensive overview report on consultants in the near future.

### RECOMMENDATIONS

We recommend that the Director of OMB instruct Federal agencies to establish more rigorous procedures for the approval of consulting service contracts. Such procedures are necessary to assure the proper use of consulting services. One action might be the establishment of an independent board

within each agency or expand the functions of sole-source boards. Some of the functions these boards could perform are:

- Assuring that in-house capability is adequately considered and assessed prior to award of contracts.
- Assuring that the service is needed in terms of agency mission and established priorities.
- Assuring that previous similar efforts have been adequately considered prior to award.
- Evaluating the necessity of using previous agency employees in performance of the contract tasks.
- Determining the reasonableness of using CPFF contracts in view of the nature of the work proposed to be performed.

In addition, we recommend that the Director of OMB:

- Work with the Congress to achieve a better and more uniform understanding of the current definition in terms of coverage and clarity as well as congressional needs. Also, a focal point should be established within the agencies to be responsible for determining which contracts meet the definition of consulting services.
- Intensify oversight on agencies' use of consulting services, including assuring that all agencies are moving as rapidly as possible to report those services to FPDS.

#### AGENCY COMMENTS

At the request of the Chairman, Subcommittee on Human Resources, House Committee on Post Office and Civil Service, we did not obtain written agency comments. We have, however, briefed the agencies on the results of the review.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

BULLETIN NO. 78-11

May 5, 1978

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Guidelines for the Use of Consulting Services

1. Purpose. The Bulletin establishes policy and guidelines to be followed by executive branch agencies in determining and controlling the appropriate use of consulting services obtained from individuals and organizations.

2. Background. The President, in a memorandum of May 12, 1977 (Attachment A) asked the heads of agencies to review the consulting service arrangements of their organizations to assure that they were both appropriate and necessary. As requested, the agencies reported the results of their review to the Director, Office of Management and Budget (OMB), along with the criteria used in determining when it is appropriate to use consulting services. While many agencies have excellent management controls to assure that abuses do not occur, there was a lack of uniformity of definition, criteria, and management controls among the agencies.

Based largely upon the data received from the agencies, this Bulletin establishes a standard definition, uniform criteria for determining the appropriate use of consulting services, and outlines management controls required of the agencies.

3. Coverage. The provisions of this Bulletin apply to consulting services obtained by the following arrangements:

- (a) Personnel appointment;
- (b) Procurement contract; and
- (c) Advisory committee membership (not otherwise covered).

When one of the above arrangements for consulting services is entered into, any applicable statutory requirements, such as those in 5 U.S.C. 3109 for personnel appointments will govern.

4. Definition. As used for administrative direction in this Bulletin, Consulting Services means those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management. (See Attachment B for examples of the type of services to which this Bulletin does and does not apply.)

These services are normally provided by persons and/or organizations who are generally considered to have knowledge and special abilities that are not generally available within the agency. The form of compensation is irrelevant to the definition.

5. Basic Policy

a. Consulting services will not be used in performing work of a policy/decisionmaking or managerial nature which is the direct responsibility of agency officials.

b. Consulting services will normally be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

c. Consulting services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

d. Former Government employees per se will not be given preference in consulting service arrangements.

e. Consulting services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

f. Grants and cooperative agreements will not be used as legal instruments for consulting service arrangements.

6. Guidelines for use of Consulting Services. Consulting service arrangements may be used, when essential to the mission of the agency, to:

a. Obtain specialized opinions or professional or technical advice which does not exist or is not available within the agency or another agency.

b. Obtain outside points of view to avoid too limited judgment on critical issues.

c. Obtain advice regarding developments in industry, university, or foundation research.

d. Obtain the opinion of noted experts whose national or international prestige can contribute to the success of important projects.

e. Secure citizen advisory participation in developing or implementing Government programs that by their nature or by statutory provision call for such participation.

7. Management Controls

a. Each agency will assure that for all consulting service arrangements:

(1) Every requirement is appropriate and fully justified in writing. Such justification will provide a statement of need and will certify that such services do not unnecessarily duplicate any previously performed work or services;

(2) Work statements are specific, complete and specify a fixed period of performance for the service to be provided;

(3) Contracts for consulting services are competitively awarded to the maximum extent practicable to ensure that costs are reasonable;

(4) Appropriate disclosure is required of, and warning provisions are given to, the performer(s) to avoid conflict of interest; and

(5) Consulting service arrangements are properly administered and monitored to ensure that performance is satisfactory.

b. Each agency will establish specific levels of delegation of authority to approve the need for the use of consulting services, based on the policy and guidelines contained in this Bulletin. Approval of all consulting service arrangements should be required at a level above the organization sponsoring the activity.

c. OMB Circular No. A-63, Advisory Committee Management, governs policy and procedures regarding advisory committees and their membership.

d. The Federal Personnel Manual (FPM), Chapter 304, governs policy and procedures regarding personnel appointments.

e. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulations govern policy and procedures regarding contracts.

8. Data Requirements. By October 1, 1978, the following data systems will have the capability to provide information on consulting service arrangements within the executive branch:

a. Central Personnel Data File (CPDF), operated by the Civil Service Commission, will have data on personnel appointments, segregating consultants, experts, and advisory committee members (as defined in OMB Circular No. 63).

b. Federal Procurement Data System (FPDS) will have data on contract arrangements.

c. Advisory committee data will continue to be maintained in accordance with OMB Circular No. A-63.

9. Reporting Requirements. Agencies will submit a report to the Office of Federal Procurement Policy, OMB, on June 30, 1978. The report will be submitted in the format of the Exhibit as follows. For each type of consulting service arrangement in effect as of June 1, 1978, specify:

a. The number of such arrangements; and

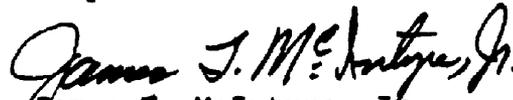
b. The total dollars (in thousands) in terms of outlays.

This is a one-time report

10. Effective date. This bulletin is effective immediately.

11. Rescission. This Bulletin is rescinded following incorporation of basic policy, guidelines, and management controls into agencies' policies and procedures, the submission of the required data due on June 30, 1978, and implementation of the data system requirements due October 1, 1978.

12. Inquiries. All questions or inquiries should be submitted to the Office of Management and Budget, Administrator for Federal Procurement Policy. Telephone Number (202) 395-3340.

  
James T. McIntyre, Jr.  
Director

Attachments

## Attachment A

THE WHITE HOUSE

WASHINGTON

May 12, 1977

MEMORANDUM FOR THE HEADS OF

EXECUTIVE DEPARTMENTS AND AGENCIES

In a continuing search for ways to improve the efficiency and effectiveness of the executive branch, I have become aware of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government. A recent survey by a Senate subcommittee of the use of personal and non-personal consultant and expert services identified more than 30,000 contract arrangements and 10,777 individual appointments. Additionally, there are such services provided by grant arrangements and through advisory committee memberships.

There has been, and continues to be, evidence that some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly.

This must be corrected without delay.

Some areas of concern include:

-- Use of consultants to perform work of a policymaking or managerial nature which should be retained directly by agency officials.

-- Repeated appointments or contract extensions which raise questions whether the work is better suited to other more appropriate arrangements.

-- Use of consultants to provide studies and analyses which have no useful impact on agency operations, either because the subject itself is non-essential or because there are no disciplined agency procedures to (a) check priorities and (b) insure follow-up on the results.

-- Use of consultant arrangements as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

-- "Revolving door" abuses whereby former Government employees may be improperly favored for individual or contracted consulting arrangements.

2

-- Intra-agency duplication of consultant efforts, especially in large, multi-agency departments such as Defense and Health, Education and Welfare, because there is no central coordination of consulting efforts or dissemination of results.

-- Conflicts of interest between consultants' advice and their other outside financial interests and affiliations.

In order to improve the use of consultants, I want you to:

1. Review all data that is available or can be readily assembled to describe:

-- The principal purposes for which consulting services are being used;

-- The types of consulting arrangements being used (Civil Service Commission appointment, contract, grant, advisory committee membership, other); and

-- The number of such arrangements in effect and the total dollars involved.

2. Review and revise the management controls and decision criteria used for consultants which will effectively prevent abuses.

3. Eliminate those consultant arrangements found to be neither appropriate nor necessary.

4. Report the results of the above items to the Director of the Office of Management and Budget by June 30, 1977.

I am asking the Director of the Office of Management and Budget to review your reports and, where appropriate, to suggest additional measures that you might apply to strengthen your management control of the purposes and arrangements for consulting and expert services.



## Attachment B

This attachment contains some, but not all, examples of the type of services to which this Bulletin does and does not apply.

Services Included

- Advice on discriminatory practices in labor;
- Advice on organizational structure and management methods;
- Advice on artistic and cultural matters;
- Advice on and analysis of electric power projects;
- Evaluation of the effectiveness of agency publications;
- Advice on mail handling procedures;
- Advice on plans for conducting census enumerations;
- Analysis of the impact of a program;
- Advice on maritime labor policy and maritime market development;
- Advice on legal and technological problems in patent and trademark examinations;
- Policy and program analysis evaluation and advice;
- Services of grant peer review panelists;

Services Excluded

- Commercial and industrial products and services (see OMB Circular No. A-76);
- Conduct of research (see OMB Circular No. A-11)
- Performance of operating functions and supervision of those functions;
- Automatic data processing/keypunching services;
- Information system development;
- Audits made by Certified Public Accountants;
- Architect and engineering services and other associated services directly related to a particular structure;

- Purchase of real or personal property;
- Stenographic services;
- Direct operation and management of Government-owned facilities;
- Installation or testing of equipment;
- Services performed by technicians or non-professional persons to meet unusual or peak work demands;
- Consultant-type services provided by one Federal entity for another Federal entity under a Memorandum of Understanding or similar arrangement;
- Physicians, dentists, nurses, and other health care professionals providing medical services;
- Employee training and executive development;
- Legal research services that do not include advice or recommendations;
- Editing and proofreading services;
- Educational-vocational guidance counseling for veterans;
- Court reporting;
- Translation services;
- Advisory services provided directly to the public or foreign governments as part of an agency's programs of assistance.
- Geological, archeological, and cadastral surveys.

SUMMARY OF QUESTIONABLE AREAS IN EACH CONTRACT REVIEWED

GAO CONTROL NUMBER	TOTAL AMOUNT	IN-HOUSE CAPABILITY	UNSOLICITED PROPOSAL	LAST QTR SPENDING	QUESTIONABLE USE OF RESULTS	SOLE SOURCE CONTRACTING	FORMER EMPLOYEES	CONSULTANT USE OF CONSULTANT	CONTRACT MODIFICATIONS	PERIOD OF PERFORMANCE EXTENSIONS
1	\$ 150,000.	X		X	X	X		X	X	X
2	\$ 215,000.				X	X	X		X	X
3	\$ 146,320.		X	X	X	X			X	X
4	\$ 32,155.		X		X	X			X	X
5	\$ 224,045.				X	X			X	X
6	\$ 72,000.	X	X	X		X			X	X
7	\$ 129,419.	X		X				X	X	X
8	\$ 90,300.			X		X		X	X	X
9	\$ 15,500.					X				
10	\$ 12,870.					X				
11	\$ 15,000.	X				X	X			
12	\$ 49,695.									
13	\$ 245,882.	X			X		X	X	X	X
14	\$ 69,150.		X	X		X		X	X	X
15	\$ 125,722.	X						X		
16	\$ 645,000.					X				
17	\$ 131,142.	X				X		X		
18	\$ 25,000.	X			X	X				
19	\$ 9,900.	X			X	X	X		X	X

Department of Commerce

SUMMARY OF QUESTIONABLE AREAS IN EACH CONTRACT REVIEWED

GAO CONTROL NUMBER	TOTAL AMOUNT	IN-HOUSE CAPABILITY	UNSOLICITED PROPOSAL	LAST QTR SPENDING	QUESTIONABLE USE OF RESULTS	SOLE SOURCE CONTRACTING	FORMER EMPLOYEES	CONSULTANT USE OF CONSULTANTS	CONTRACT MODIFICATIONS	PERIOD OF PERFORMANCE EXTENSIONS
20	\$1,480,455.					X				
21	\$ 29,947.	X	X			X				
22	\$ 216,249.			X		X				
23	\$ 198,220.					X				X
24	\$ 69,879.	X	X			X				
25	\$ 182,520.		X	X		X				X
26	\$ 646,727.		X							X
27	\$ 107,778.	X		X				X		X
28	\$ 185,000.	X		X		X				X
29	\$ 164,846.			X		X				X
30	\$ 453,581.			X		X		X		X
31	\$ 343,849.	X		X						X
32	\$ 27,000.				X	X				
33	\$ 879,989.						X			
34	\$1,425,238.			X		X		X		X
35	\$ 343,834.			X				X		X
36	\$ 79,678.	X		X						X
37	\$ 74,261.					X				
38	\$ 20,961.			X		X				
39	\$ 30,000.					X				X

Department of Energy

SUMMARY OF QUESTIONABLE AREAS IN EACH CONTRACT REVIEWED

GAO CONTROL NUMBER	TOTAL AMOUNT	IN-HOUSE CAPABILITY	UNSOLICITED PROPOSAL	LAST QTR SPENDING	QUESTIONABLE USE OF RESULTS	SOLE SOURCE CONTRACTING	FORMER EMPLOYEES	CONSULTANT USE OF CONSULTANTS	CONTRACT MODIFICATIONS	PERIOD OF PERFORMANCE EXTENSIONS
40	\$ 78,494.		X	X	X	X		X	X	X
41	\$ 484,452.			X		X		X	X	X
42	\$ 17,416.	X		X	X	X		X		
43	\$ 98,700.		X	X	X	X		X		
44	\$ 164,967.		X		X	X		X		X
45	\$ 107,981.	X		X				X		
46	\$ 589,866.	X		X	X			X	X	X
47	\$ 218,547.			X	X	X		X	X	X
48	\$ 36,530.	X		X	X	X		X	X	X
49	\$ 255,402.			X				X		
50	\$ 249,372.			X				X		
51	\$ 55,662.			X				X		
52	\$ 59,263.	X		X	X	X		X		
53	\$ 71,425.	X		X	X			X	X	X
54	\$ 123,006.	X		X				X	X	X
55	\$ 51,000.	X		X	X	X		X		
56	\$ 325,920.			X	X				X	X
57	\$ 496,638.			X				X		
58	\$ 403,536.			X				X		
59	\$ 349,985.			X				X		

Department of Health, Education and Welfare/Office of Education

SUMMARY OF QUESTIONABLE AREAS IN EACH CONTRACT REVIEWED

GAO CONTROL NUMBER	TOTAL AMOUNT	IN-HOUSE CAPABILITY	UNSOLICITED PROPOSAL	LAST QTR SPENDING	QUESTIONABLE USE OF RESULTS	SOLE SOURCE CONTRACTING	FORMER EMPLOYEES	CONSULTANT USE OF CONSULTANT	CONTRACT MODIFICATIONS	PERIOD OF PERFORMANCE EXTENSIONS
60	\$ 150,000.	X	X		X	X	X		X	
61	\$ 24,975.	X	X			X			X	X
62	\$ 48,000.		X	X		X			X	X
63	\$ 71,000.	X	X		X	X		X		
<u>Department of Housing and Urban Development</u>										
64	\$ 24,500.	X		X	X	X		X		
65	\$ 301,124.	X			X			X	X	X
66	\$ 246,276.		X		X			X	X	X
67	\$ 39,867.	X		X	X			X	X	X
68	\$ 123,300.	X		X	X			X	X	X
69	\$ 56,738.			X	X			X	X	X
70	\$ 145,900.			X	X		X	X	X	X
71	\$ 60,450.	X		X					X	
72	\$ 135,254.			X		X				
73	\$ 49,650.	X				X				X
<u>Department of Labor</u>										
74	\$ 232,498.		X					X	X	X
75	\$ 140,444.	X				X		X	X	X
76	\$ 98,044.	X				X		X	X	
77	\$ 49,894.			X						
78	\$ 41,800.									X

SUMMARY OF QUESTIONABLE AREAS IN EACH CONTRACT REVIEWED

<u>GAO CONTROL NUMBER</u>	<u>TOTAL AMOUNT</u>	<u>IN-HOUSE CAPABILITY</u>	<u>UNSOLICITED PROPOSAL</u>	<u>LAST QTR SPENDING</u>	<u>QUESTIONABLE USE OF RESULTS</u>	<u>SOLE SOURCE CONTRACTING</u>	<u>FORMER EMPLOYEES</u>	<u>CONSULTANT USE OF CONSULTANT</u>	<u>CONTRACT MODIFICATIONS</u>	<u>PERIOD OF PERFORMANCE EXTENSIONS</u>
79	\$ 85,387.					X		X	X	X
80	\$ 99,992.	X		X					X	X
81	\$ 185,453.	X	X			X			X	X
82	\$ 174,416.		X			X	X		X	X
83	\$ 78,330.	X							X	X
84	\$ 19,760.					X				
85	\$ 69,494.			X		X		X	X	X
86	\$ 169,164.					X		X		
87	\$ 57,813.	X		X				X	X	X
88	\$ 72,033.					X		X		
89	\$ 199,985.				X	X		X	X	X
90	\$ 284,653.	X		X		X		X	X	X
91	\$ 179,841.	X		X				X		
<u>Department of Transportation</u>										
92	\$ 24,365.			X		X		X		
93	\$ 36,918.			X		X				
94	\$ 200,000.	X	X			X	X		X	X
95	\$ 234,975.			X		X				
96	\$ 136,212.	X		X		X	X	X		
97	\$ 150,000.	X			X	X		X	X	X
98	\$ 304,433.			X		X	X	X	X	X
99	\$ 214,837.					X		X	X	

SUMMARY OF QUESTIONABLE AREAS IN EACH CONTRACT REVIEWED

<u>GAO CONTROL NUMBER</u>	<u>TOTAL AMOUNT</u>	<u>IN-HOUSE CAPABILITY</u>	<u>UNSOLICITED PROPOSAL</u>	<u>LAST QTR SPENDING</u>	<u>QUESTIONABLE USE OF RESULTS</u>	<u>SOLE SOURCE CONTRACTING</u>	<u>FORMER EMPLOYEES</u>	<u>CONSULTANT USE OF CONSULTANT</u>	<u>CONTRACT MODIFICATIONS</u>	<u>PERIOD OF PERFORMANCE EXTENSIONS</u>
100	\$ 34,476.					X			X	X
101	\$ 25,000.	X			X	X	X			
102	\$ 187,569.	X					X	X	X	X
103	\$ 20,000.	X							X	X
104	\$ 319,497.						X	X	X	X
105	\$ 59,335.	X				X		X		
106	\$ 320,256.					X		X	X	
107	\$ 19,898.				X	X	X		X	X
108	\$ 5,000.					X				
109	\$ 88,685.					X			X	
110	\$ 46,719.			X	X	X	X	X		
111	\$ 134,070.	X		X					X	X
	<u>\$19,880,554.</u>	<u>48</u>	<u>20</u>	<u>57</u> <sup>2/</sup>	<u>28</u> <sup>1/</sup>	<u>74</u>	<u>18</u>	<u>53</u>	<u>70</u>	<u>58</u>

1/ Figure includes 8 contracts that were not completed.

2/ Figure includes 20 contracts that the procurement request and contract award was made in the last quarter.

Single copies of GAO reports are available free of charge. Requests (except by Members of Congress) for additional quantities should be accompanied by payment of \$1.00 per copy.

Requests for single copies (without charge) should be sent to:

U.S. General Accounting Office  
Distribution Section, Room 1518  
441 G Street, NW.  
Washington, DC 20548

Requests for multiple copies should be sent with checks or money orders to:

U.S. General Accounting Office  
Distribution Section  
P.O. Box 1020  
Washington, DC 20013

Checks or money orders should be made payable to the U.S. General Accounting Office. NOTE: Stamps or Superintendent of Documents coupons will not be accepted.

**PLEASE DO NOT SEND CASH**

To expedite filling your order, use the report number and date in the lower right corner of the front cover.

GAO reports are now available on microfiche. If such copies will meet your needs, be sure to specify that you want microfiche copies.

**AN EQUAL OPPORTUNITY EMPLOYER**

**UNITED STATES  
GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548**

**OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE, \$300**

**POSTAGE AND FEES PAID  
U. S. GENERAL ACCOUNTING OFFICE**



**THIRD CLASS**