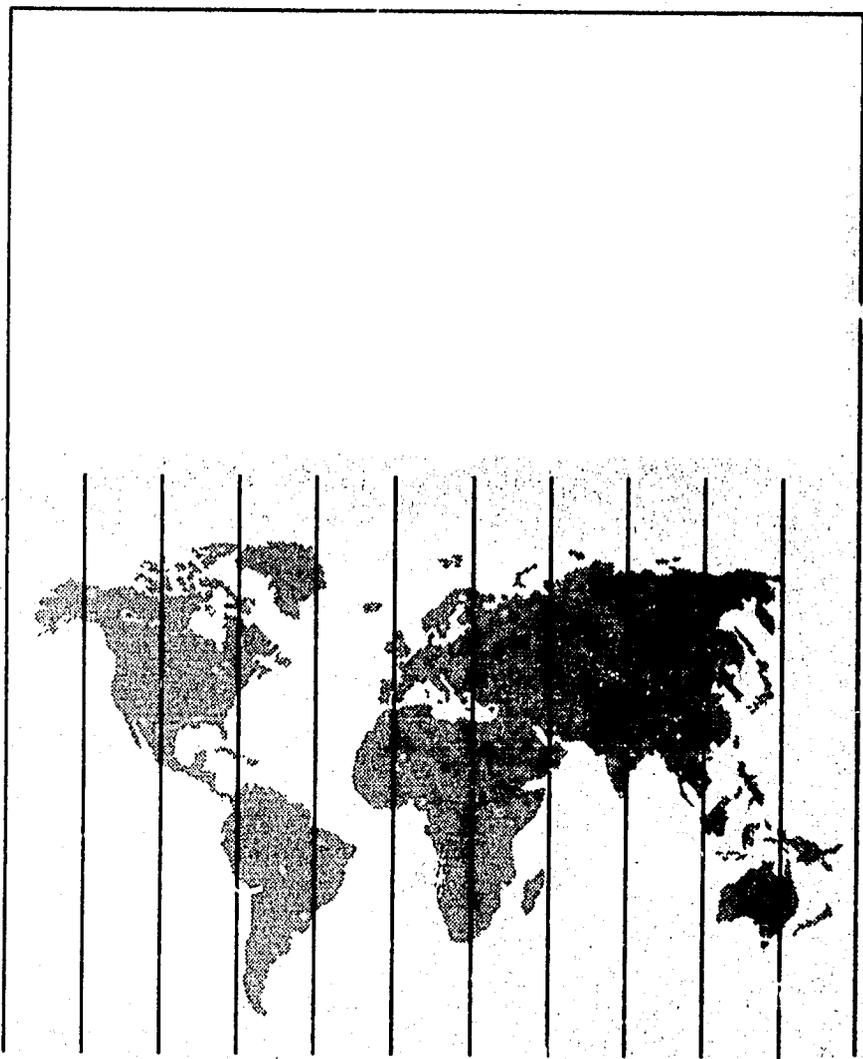


UNITED STATES
AGENCY FOR INTERNATIONAL DEVELOPMENT

THE
INSPECTOR
GENERAL



Assistant Inspector General for Audit

PD-ABD-031

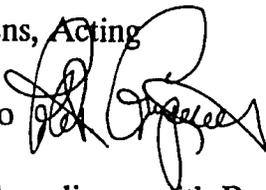
**Audit of A.I.D.'s Compliance
with Requirements for
Consulting Services**

**Audit Report No. 9-000-91-008
August 8, 1991**

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D C 20523

ASSISTANT INSPECTOR GENERAL
FOR AUDIT

AUG 8 1991

MEMORANDUM FOR AA/FA, John F. Owens, Acting
FROM: AIG/A, John P. Competello 
SUBJECT: Audit Report on A.I.D.'s Compliance with Requirements for
Consulting Services

Enclosed are five copies of the subject report. In preparing this report, we reviewed your comments on the draft report and included them as an appendix to this report. Based on your comments, the report's two recommendations are resolved and we will close them when appropriate actions are completed. Please advise us within 30 days of any additional information related to action planned or taken to implement the recommendations. We appreciate the cooperation extended to our staff during the audit.

Background

Public Law 97-258 which enacted Title 31, Section 1114(a) of the U. S. Code requires federal agencies to include in their annual budget submission to the Congress a justification for consulting services. This justification should include the amounts requested for consulting services, the appropriation accounts, and a description of need for consulting services. This legislation was enacted in September 1982.

In April 1980, Office of Management and Budget (OMB) Circular A-120 established guidelines for federal agencies when using consulting services. OMB revised Circular A-120 in January 1988 to expand the definition of consulting services and increase federal agencies responsibilities for managing and reporting on them. The revision also changed the name of consulting services to advisory and assistance services.¹ The Federal Acquisition Regulation (FAR) was revised in November 1988 to incorporate the OMB changes.

¹ For the purpose of this report, we use the terms consulting services and advisory and assistance services interchangeably.

Advisory and assistance services are those services obtained to support or improve an agency's policy development, management, and administration. Such services are obtained from non-government sources by contract or by personnel appointment.

The Office of Human Resources and Management Development (HRMD) is responsible for preparing A.I.D.'s budget justification report for advisory and assistance services. Fiscal year 1990 costs for such services were \$41.7 million. Contracts accounted for 97 percent of the costs. The remaining three percent was for short term personnel appointments and non-federal members of advisory committees.

The Bureau for Management Services' Office of Procurement (MS/OP) has overall responsibility for contracting in Washington and maintains a management information data base to collect and report data on contracts. The Office of Procurement provides this contract information quarterly to the General Services Administration for input to the Federal Procurement Data System (FPDS). The FPDS is a computer system that processes procurement data and generates reports for the Congress, the executive branch, and the private sector.

Section 1114(b), Title 31 of the U. S. Code requires the Inspector General of each federal agency to submit an annual report to the Congress on the agency's progress in instituting effective management controls and improving the accuracy and completeness of data provided to the FPDS. Accordingly, the A.I.D. Inspector General has completed seven audit reports on A.I.D.'s management and reporting of consulting services since 1982. All recommendations resulting from those audit reports have been closed. This audit was also made in response to the law.

Audit Objectives

We audited A.I.D.'s systems and procedures related to consulting services to answer the following audit objectives:

1. Did the Office of Procurement establish and implement controls on the use of advisory and assistance services to ensure compliance with OMB Circular A-120 and the Federal Acquisition Regulation?
2. Did the Office of Procurement provide accurate and complete information on advisory and assistance services to the Federal Procurement Data System?

3. Did the Office of Human Resources and Management Development properly support the advisory and assistance services information in the fiscal year 1992 budget submission?

In answering these audit objectives, we tested whether A.I.D. implemented applicable internal controls listed in OMB Circular A-120 and complied with certain provisions of the FAR sub-part 37.2 "Advisory and Assistance Services." However, in some cases we did not continue testing when we found that for items tested, A.I.D. followed established procedures and complied with legal requirements. Therefore, we limited our conclusions concerning these positive findings to the items actually tested. But when we found problem areas, we performed additional work to:

- conclusively determine that a problem existed,
- identify the cause and effect of the problems, and
- make recommendations to correct the problems and the cause of the problems.

Our discussion of the scope and methodology for this audit is in appendix I and our reports on internal controls and compliance are in appendices III and IV.

Audit Findings

Did the Office of Procurement Establish and Implement Controls on the Use of Advisory and Assistance Services to Ensure Compliance with OMB Circular A-120 and the Federal Acquisition Regulation?

The Office of Procurement had established controls for advisory and assistance services to ensure compliance with OMB Circular A-120 and FAR requirements. However, for the items tested, the controls had been inconsistently implemented.

To answer this objective, the audit included steps to identify and document key internal controls and appropriate tests to determine whether A.I.D. had effectively implemented such controls.

A.I.D. had installed internal controls which satisfy the January 1988 OMB Circular A-120 requirements. For example, in June 1990 the Assistant to the Administrator for Management Services was designated as the Advisory and Assistance Executive for A.I.D.

He is responsible for ensuring that advisory and assistance contracts comply with the terms of OMB Circular A-120 and FAR. In November 1990, A.I.D.'s acquisition regulation (Handbook 14) were updated to comply with the 1988 OMB and FAR requirements.

Although controls had been established, a significant number of the contracts tested did not comply with Circular A-120 and FAR requirements. The noncompliance to OMB Circular A-120 and the FAR requirements is discussed below.

Advisory and Assistance Contracts Were Processed Without the Required Certifications and Justifications

A significant number of the advisory and assistance services contracts reviewed did not contain the certification and justification statements required by the FAR because of inadequate attention given to these requirements by project and contracting officers. Since the contracts did not contain these statements there was less assurance that advisory and assistance services were appropriate, needed, and did not duplicate previous work.

Recommendation No. 1: We recommend that the Advisory and Assistance Executive:

- 1.1 issue a memorandum to emphasize the requesting activities' and contracting officers' responsibilities when processing advisory and assistance services contracts; and,**
- 1.2 require that reviews of A.I.D.'s contracting system by the Procurement Policy, Planning and Evaluation Staff include advisory and assistance services.**

Sections 37.206 and 37 207 of the FAR establish the responsibilities and requirements for requesting activities and contracting officers. The requesting activity is responsible for providing a statement to the contracting officer certifying that the request for advisory and assistance services is appropriate. The requesting activity also provides a written justification of need and certification that such services do not unnecessarily duplicate any previously performed work or services.

The contracting officer is responsible for making the final determination whether the request meets the definition for advisory and assistance services. If the request meets the definition but does not contain the required statements of justification and certification, the contracting officer should return the request to the requesting activity for the required statements.

We tested for compliance with these FAR requirements. Our sample consisted of 31 of 218 reported advisory and assistance services contract actions for fiscal year 1990. Our test showed that:

- fifteen (48 percent of the sample) of the contract files associated with the amendments did not have a certifying statement that the advisory and assistance service was appropriate, and
- sixteen (52 percent of the sample) of the contract files associated with the amendments did not have a written justification of need and certification that such services do not duplicate any previously performed work.

This noncompliance occurred because the contracting officers failed to ensure that the requesting activity provide the required contract statements.

The Procurement Policy, Planning and Evaluation Staff (MS/PPE) periodically reviews the contracting system for compliance with A.I.D.'s policies and procedures and FAR requirements. However, their review did not include the requirements for advisory and assistance services. We were told that MS/PPE plans to assess advisory and assistance services in future reviews.

As a result of the contracting officers' failure to ensure compliance with the FAR requirements, the potential exists that appropriated funds were used unnecessarily and duplicated services. To minimize this possibility, contracting officers need to be more attentive to the FAR requirements for advisory and assistance service requests.

Management Comments and Our Evaluation

The Finance and Administration Directorate agreed with the finding and recommendation. MS/PPE said it will amplify and republish the guidance contained in Contract Information Bulletin 90-2. The guidance will be issued as an A.I.D. General Notice. MS/PPE also will assess compliance with the new requirements during its fiscal year 1992 review cycle.

Based on these actions the recommendation is considered resolved. Part 1 of the recommendation can be closed once we receive a copy of the General Notice. Part 2 can be closed once we receive documentation that MS/PPE has included the new requirements in its guidance for reviewing A.I.D.'s contracting system.

Did the Office of Procurement Provide Accurate and Complete Information on Advisory and Assistance Services to the Federal Procurement Data System?

The advisory and assistance service data provided to the Federal Procurement Data Center (FPDC) for input into the FPDS was accurate. However, the data did not include all the contracts for fiscal year 1990.

To answer the accuracy part of the objective, the audit included steps to compare selected data from the FPDS report to the Contract Information Management System (CIMS) report. All the 14 contract actions tested were accurate. To answer completeness, the audit included steps to reconcile the two reports. The FPDS report was not complete. This problem is discussed below.

**Reports To The FPDS
Are Not Complete**

The advisory and assistance services reported to the FPDS for fiscal year 1990 was not complete. The primary reason was that some contracts from overseas missions were not received until after the FPDS cut-off date. Also, because of classification problems some advisory and assistance services may not have been correctly classified.

The FPDS report for fiscal year 1990 totaled \$26.8 million; however, the amount reported in the budget submission was \$40.6 million. The reasons for the \$13.8 million difference are discussed below.

- Approximately \$7.5 million was for overseas missions contracts. Most of A.I.D.'s overseas missions do not have CIMS and the contract data has to be entered by personnel in Washington. The final submission to the FPDS is due 60 days after the end of the fiscal year; however, it may take several months to receive the data from overseas missions. The information reported in the budget submission, which is generally due in February, was more current and included contracts entered up to January 28, 1991.
- According to MS/OP officials, approximately \$5.4 million of advisory and assistance service contracts for A.I.D./Washington was reported to FPDS but was not included in the FPDS report.

- The remaining \$.9 million was for contracts of less than \$25,000 that were not part of the FPDS listing.

We did not pursue the reasons with the FPDC for the unreported \$5.4 million. However, we were satisfied that MS/OP identified the missing contract actions and that they have provided the list to the FPDC for corrective action.

For informational purposes only, the audit reviewed statements of work for 41 contracts to determine if our interpretation of the OMB and FAR definitions agreed with the reported classification. In our opinion, nine of the 31 contract actions classified as advisory and assistance services did not satisfy the definition. The remaining 10 contracts reviewed were not classified as advisory and assistance services. Six of these contracts, in our opinion, should have been so.

Contract classification problems are not unique to A.I.D. as indicated in a May 1991 audit summary report sponsored by the Audit Committee for the President's Council on Integrity and Efficiency. This report concluded that advisory and assistance services was not clearly defined. Until a better definition has been established, we believe that application of the OMB and FAR definitions may not be consistently applied which could result in an overstatement or understatement of advisory and assistance services. We are not making any recommendations to A.I.D. on this issue because OMB is currently taking action to address the matter of definition.

Management Comments and Our Evaluation

Management stated that problems with the definition of advisory and assistance services has led to confusion as to which Procurement actions are to be treated as advisory and assistance services. Management added that OMB has formed an interagency task force to clarify the definition and A.I.D. is participating in this effort. The IG made no recommendations on this finding.

Did the Office of Human Resources and Management Development Properly Support the Advisory and Assistance Services Information in the Fiscal Year 1992 Budget Submission?

The advisory and assistance services report prepared by HRMD for Fiscal Year 1992 budget submission was adequately supported and fairly represented the recorded advisory and assistance services costs for A.I.D.. However, the report did not include all the information requested by OMB.

To answer this objective, the audit included steps to verify that the amounts reported to the Congress were supported by appropriate documentation and that the report complied with OMB guidance.

Although the amounts reported fairly represented the advisory and assistance costs, the report format did not meet OMB requirements. This issue is discussed below.

**Report Format Did Not Fully
Meet OMB Requirements**

OMB has established report format requirements for budget submissions to the Congress on advisory and assistance services. A.I.D. did not provide the funding source or contract type information because the CIMS had not been modified to provide this information. As a result, the report's utility may be reduced.

Recommendation No. 2 We recommend that the Office of Procurement request and obtain a commitment from Information Resources Management to develop the computer programs necessary to satisfy OMB reporting requirements.

OMB requested the advisory and assistance services data to be submitted in accordance with exhibit 15F of OMB Circular A-11. The A.I.D. report did not include the funding source or classify the contracts by type of service. Contracts should be classified as:

- individual expert and consultants;
- studies, analyses and evaluations;
- management and professional support services; and,
- engineering and technical services.

OMB requested that the funding source be identified as either program or operating expenses.

An Office of Procurement official said they should be able to provide the information in the OMB format beginning with the fiscal year 1993 budget submission. He also said that A.I.D. had not provided the data in the OMB format in the past because the CIMS data

included records from the old contract system that did not have the data elements necessary for accurate reporting. Furthermore, OMB agreed to A.I.D.'s reporting format for the fiscal year 1992 budget submission.

The audit did not determine the impact, if any, that this reporting deficiency had on OMB or the Congress. Since OMB requested that, at a minimum, the funding category and type of contractual service be included in the report, the reporting deficiency may cause the report to be of less value.

Management Comments and Our Evaluation

Management stated that the Office of Procurement will take the steps necessary to assure that the Contract Information Management System provides the OMB required data on advisory and assistance services including funding source and type of services.

Recommendation 2 is resolved. This recommendation can be closed after we receive documentation that the computer programs have been developed to produce reports which satisfy OMB's reporting requirements.

Issues Needing Further Study

During the audit we noted data security weaknesses at both the computer and CIMS applications levels. Since the focus of the audit was not on computer data security issues, we were not in a position to fully address our concerns. We intend to address data security in a future audit. We suggest that management study the issues outlined below, and take appropriate action.

The CIMS is a management information data base containing sensitive procurement data. OMB Circular A-130 requires each agency to establish a level of security for information systems to ensure that only authorized personnel have access to information systems.

The Office of Information Resources Management is responsible for A.I.D.'s computers; however, they have not installed security software to prevent computer users from changing or deleting contract data. Office of Information Resources Management officials said they plan to install security software on the computer in fiscal year 1992.

In addition, the CIMS application has its own security control to restrict authorized users to defined functions. The Office of Procurement is responsible for this control function in A.I.D./Washington. However, we noted that three programmers had access privileges that would allow them to change, add, or delete CIMS user security profiles. We believe that only Office of Procurement security personnel should be able to perform these functions.

As a result of these weak data access controls, contract data was vulnerable to inappropriate changes and usage.

SCOPE AND METHODOLOGY

Scope

The audit was made in accordance with generally accepted government auditing standards. The audit universe included the reported advisory and assistance services awarded by A.I.D./Washington during fiscal year 1990. The total reported advisory and assistance services costs for fiscal year 1990 is shown below.

<u>Location/Category</u>	<u>Amount (\$ 000)</u>	<u>Percent</u>
A.I.D./Washington:		
Contracts	\$22,660	54.3%
Personnel Appointments	708	1.7
Advisory Committees	<u>403</u>	<u>1.0</u>
Subtotal	\$23,771	57.0%
Overseas Missions:		
Contracts	<u>17,928</u>	<u>43.0</u>
TOTALS	\$41,699	100.0%

The audit did not include the \$17.9 million of contracts awarded by overseas missions.

We performed the audit from March 5, 1991, through May 10, 1991, at A.I.D.'s Offices of Human Resources and Management Development and the Bureau for Management Services in the Washington, D.C. area. The audit used pertinent reports generated by A.I.D.'s computerized Contract Information Management System and the Federal Procurement Data System to quantify the audit universe and as the basis for sampling and testing for compliance, accuracy and completeness.

The audit did not test to determine whether all contracts for fiscal year 1990 were entered into the CIMS computer system. For informational purposes only, the audit attempted to determine whether A.I.D. had properly classified its contracts because of the different possible interpretations of the OMB and FAR definitions for advisory and assistance service contracts.

Methodology

The methodology for each audit objective is described below.

Audit Objective One

In order to accomplish the first objective, we researched the legislation, Federal Acquisition Regulation, OMB Circular and A.I.D. Handbook 14 to identify and document applicable key controls.

We interviewed A.I.D. officials and reviewed internal documents to determine if A.I.D. had established key controls. We interviewed officials and reviewed the Federal Register and A.I.D. Handbook 14 to determine whether A.I.D.: (1) had designated an Advisory and Assistance Executive; (2) had established a system to review completed advisory and assistance service contracts; and (3) had established approval levels for advisory and assistance service contracts.

To test whether A.I.D. had implemented selected controls, we randomly selected 31 contract actions from the total of 218 (14.2 percent) contract actions reported for A.I.D./Washington advisory and assistance services. Our random sample provided us with a better than 95 percent confidence level that our findings would be representative of the universe.

For each contract selected, we reviewed the microfiche and hard copy files to determine whether: (1) the amounts reported were accurate, (2) the contracts included a statement that advisory and assistance services were appropriate, (3) the contracts included a written justification of need and that such services did not unnecessarily duplicate any previously performed work or services, and (4) the work statements appeared to be specific, complete, and provided a fixed period of performance for the service. Except for item 1 above, these requirements were identified in the OMB A-120 Circular and FAR. In addition, we reviewed the November 27, 1989, internal control risk assessment conducted by the Office of Procurement which was prepared pursuant to the requirements of OMB Circular A-123.

Audit Objective Two

In order to test the accuracy of the data that A.I.D. provided to the FPDS, we compared the amounts of the contract actions reported by CIMS to the amounts reported by the FPDS. A random sample of 14 contracts out of a total of 101 reported by FPDS were reviewed to verify the accuracy of the report. We chose this sample method so that the results of the test would not be biased.

To test for completeness, we reconciled the CIMS and FPDS reported advisory and assistance services contracts for fiscal year 1990 and determined the causes for any differences. In addition, a judgement sample of 10 contracts that were not classified as advisory and assistance services was selected and reviewed to determine if, in our opinion, they had been correctly classified. This same test was done for the 31 contracts randomly selected for objective one which were classified as advisory and assistance services. Audits of other federal agencies have identified problems with interpreting the FAR and OMB definitions. We tested these 41 contracts to determine if this problem existed at A.I.D.

Audit Objective Three

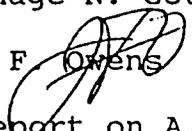
To accomplish the third objective, we reviewed guidance provided by OMB Circular A-11 for the format of the advisory and assistance services report and discussed the reporting requirements with HRMD personnel. We reviewed the payroll and CIMS computer reports and Federal Advisory Committees report and verified the mathematical accuracy of these reports. These three reports were the basis for A.I.D.'s fiscal year 1992 budget submission for advisory and assistance services to the Congress.

Agency for International Development
Washington, D.C. 20523

July 22, 1991

MEMORANDUM

TO: IG/A/PSA, Coinage N. Gothard, Jr.

FROM: A-AA/FA, John F. Owens 

SUBJECT: Draft Audit Report on A.I.D.'s Compliance with
Requirement for Consulting Services

Thank you for the opportunity to review the subject draft audit report. The staff of the Finance and Administration Directorate has reviewed the draft report and the following comments are offered on its contents. As your audit team observed in the draft report, the definition of advisory and assistance, or consulting, services currently contained in OMB Circular A-120 is imprecise in its terms. This has led to confusion on which procurement actions are to be included in this category. In response to the government-wide problems with the current definition, the Office of Management and Budget has formed an interagency task force to attempt to clarify the definition of these services. A.I.D. is participating in this effort. Hopefully, it will result in a revised definition that can be consistently understood and applied by procurement personnel throughout the government and particularly within A.I.D.

Our comments on the specific recommendations in the draft report are as follows:

Recommendation 1.1: To meet the requirement in this recommendation, MS/PPE will amplify and republish the guidance contained in Contract Information Bulletin 90-2. This guidance will also be issued as an A.I.D. General Notice.

Recommendation 1.2: MS/PPE will assess compliance with the new requirements during its FY 1992 review cycle.

Recommendation 2: The Office of Procurement will take the steps necessary to assure that the Contract Information Management System (CIMS), which is the source of our FPDS and Congressional Presentation reporting, will provide data on advisory and assistance services by funding source (program or operating expense) and by type of service.

If you have any questions on the above please contact Barry Knauf, MS/OP, on (703)875-1110.

REPORT ON INTERNAL CONTROLS

This section provides a summary of our assessment of internal controls for the three audit objectives.

Scope of Our Internal Control Assessment

We performed our work according to generally accepted government auditing standards, which require that we:

- assess the applicable internal controls when necessary to answer the audit objectives, and
- report on the controls assessed, the scope of our work and any significant weaknesses found during the audit.

The assessment of internal controls was limited to the controls applicable to each of the audit objectives. We considered A.I.D.'s internal control structure in order to determine what audit procedures would be necessary to reliably answer the audit objectives.

As part of our consideration of internal controls, we reviewed the November 27, 1989, internal control risk assessment conducted by the Office of Procurement in accordance with the requirements of OMB Circular A-123. The following control included in their internal control assessment was tested during this audit.

- Are reports made in accordance with prescribed directives?

We classified significant internal control policies and procedures applicable to each audit objective by category. For each category, we obtained an understanding of the design of relevant policies and procedures and determined whether they have been placed in

operation--and we assessed control risk. We have reported these categories as well as any significant weaknesses under the applicable section heading for each audit objective.

For this report, we grouped the applicable internal controls into the following categories:

- controls to ensure that advisory and assistance service contracts comply with OMB Circular A-120 and the Federal Acquisition Regulation, and
- controls to ensure reporting for advisory and assistance reporting was properly supported.

In performing the audit, we found certain problems that we consider reportable under the standards established by the Comptroller General of the United States. Reportable conditions are those which, in our judgement, could adversely affect A.I.D.'s ability to ensure that resource use is consistent with laws, regulations, and policies; that resources are safeguarded against waste, loss, and misuse; and that reliable data is obtained, maintained, and fairly disclosed in reports.

General Background on Internal Controls

Under the Federal Managers' Financial Integrity Act, OMB's implementing policies, and the GAO standards, A.I.D. management is responsible for establishing and maintaining adequate internal controls. Management is required to assess the expected benefits versus the costs of internal control policies and procedures.

The objective of internal control policies and procedures is to provide management with reasonable--but not absolute--assurance that resource use is consistent with applicable laws, regulations, and policies; that resources are safeguarded against waste, loss, and misuse; and that reliable data is obtained, maintained, and fairly disclosed in reports. Because of inherent limitations in any internal control structure, errors or irregularities may occur and not be detected. Moreover, it is difficult to project whether an internal control system will work effectively in the future because (1) changes in conditions may require changes in internal control policies and procedures or (2) compliance with internal control policies and procedures may deteriorate.

Conclusion for Audit Objective One:

The purpose of objective one was to determine whether controls were established and

implemented for the use of advisory and assistance services. The internal controls assessed were to determine whether contracts were processed in accordance with OMB Circular A-120. The specific controls assessed were that:

- An information system is maintained to monitor and report advisory and assistance services;
- Management complies with the FAR sections relating to advisory and assistance services;
- A single official is responsible and accountable for advisory and assistance services; and,
- Specific levels of authority were designated to approve the need for advisory and assistance services.

We reviewed the agency's internal controls relating to processing advisory and assistance services. Our assessment showed that controls were established but the controls did not ensure compliance with regulations. We determined that the following condition was reportable.

- A significant number of the advisory and assistance service contracts tested did not comply with the OMB and FAR requirements.

Conclusion for Audit Objective Two:

The purpose of objective two was to determine whether the Office of Procurement provided accurate and complete information on the advisory and assistance services to the Federal Procurement Data System. There were no specific internal controls assessed for this objective.

Conclusion for Audit Objective Three:

The purpose of this objective was to determine whether the Office of Human Resources and Management Development properly supported A.I.D.'s advisory and assistance services report for the fiscal year 1992 budget submission.

We reviewed the agency's internal controls for preparing and reporting advisory and assistance services. Our assessment showed that controls were established but these controls did not ensure compliance with OMB reporting requirements. We determined that the following condition was reportable.

- The consulting services report sent to Congress did not conform to OMB's reporting format. [Note: This item was reported in the Office of Procurement's 1989 internal control assessment as being adequate.]

Our consideration of internal controls would not necessarily identify all significant weaknesses. A significant weakness is when control procedures or the compliance with them do not reduce to a relatively low level the risk that errors or irregularities may occur and not be detected in a timely period. We believe that the condition reported above is an indication of significant weaknesses in the internal control structure for advisory and assistance services.

REPORT ON COMPLIANCE

This section summarizes our conclusions on A.I.D.'s compliance with applicable laws and regulations.

Scope of Our Compliance Assessment

We conducted our audit in accordance with generally accepted government auditing standards, which required that we:

- assess compliance with applicable requirements of laws and regulations when necessary to satisfy the audit objectives (which includes designing the audit to provide reasonable assurance of detecting abuse or illegal acts that could significantly affect the audit objectives); and
- report all significant instances of noncompliance and abuse and all indications or instances of illegal acts that could result in criminal prosecution that were found during or in connection with the audit.

The Office of Procurement's management is responsible for ensuring that A.I.D./Washington contracts for advisory and assistance services comply with the FAR. The Office of Human Resources and Management Development and the Office of Procurement share the responsibility for compliance with Section 1114(a), Title 31 of the U.S. Code. We performed tests of the Office of Procurement's compliance with FAR sections 37.206 and 37.207. We also performed tests for compliance with Section 1114(a), Title 31 of the U.S. Code. However, our objective was not to provide an opinion on the Office of Procurement's and Office of Human Resources and Management Development's overall compliance with such provisions.

General Background on Compliance

Noncompliance is a failure to follow requirements, or a violation of prohibitions, contained in statutes regulations, contracts, grants and binding policies and procedures governing entity conduct. Noncompliance constitutes an illegal act when there is a failure to follow requirements of laws or implementing regulations, including intentional and unintentional noncompliance and criminal acts. Noncompliance with internal control procedures in the A.I.D. Handbooks generally does not fit into this definition.

Abuse is distinguished from noncompliance in that abusive conditions may not directly violate laws or regulations. Abusive activities may be within the letter of the laws and regulations but violate either their spirit or the more general standards of impartial and ethical behavior.

Conclusions on Compliance

The Office of Procurement has complied with the significant FAR requirements for advisory and assistance services. However, based upon our tests the following three requirements were not found in all the contracts sampled.

- FAR 37.206(a) requires the requesting activity to provide a certificate that the requirement was for advisory and assistance services.
- FAR 37.206(b) requires the requesting activity to provide a written justification of need and certification that such services do not unnecessarily duplicate any previously performed work or services.
- FAR 37.207(d) requires the contracting officer to verify that the request includes a statement of need and certification by the requesting official before processing any contractual action for advisory and assistance services.

Except for these instance, A.I.D. complied with the law and regulations for the items we tested.
