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Programs and Systems Audits

AUDIT OF A.I.D.'S CONTROLS OVER ADVISORY AND ASSISTANCE SERVICES CONTRACTS

Report No. 9-000-93-002
March 29, 1993

INSPECTOR GENERAL

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

AUDIT OF A.I.D.'S CONTROLS OVER ADVISORY AND ASSISTANCE SERVICES CONTRACTS

Audit Report No. 9-000-93-002
March 29, 1993

Agency for International Development
Washington, D.C. 20523

MAR 29 1993

Assistant Inspector General
for Audit

MEMORANDUM FOR AA/FA John F. Owens

FROM: AIG/A, Richard C. Thabet

SUBJECT: Audit of the A.I.D.'s Controls Over Advisory and Assistance Services Contracts (Audit Report No. 9-000-93-002)

This memorandum transmits our final report on A.I.D.'s management of advisory and assistance services contracts for fiscal year 1992. We have considered your comments on the draft report and have included them as Appendix IV to this report.

Recommendation 1.1 is resolved based on your issuance of Contract Information Bulletin 93-6 which directs contract officers to apply advisory and assistance services requirements to A.I.D. direct contracts that benefit the host country. This recommendation can be closed upon reissuance of guidance to contract officers stating that advisory and assistance services requirements also apply to Personal Services Contractors. Recommendations 1.2, 1.3, 2, and 3 are considered unresolved because you have not provided us with information on the actions that you have taken or plan to take in regards to these four recommendations. Recommendation 1.4 also remains unresolved because we disagree with your position not to request contract offices for action plans for resolving problem areas noted during routine evaluations of their procurement operations with respect to the classification of advisory and assistance services contracts.

I appreciate the cooperation and assistance provided to my staff during the audit. Please respond within 30 days, indicating any additional actions taken to close the recommendations.

Attachment: a/s

EXECUTIVE SUMMARY

Background

The Money and Finance Act (Public Law 97-258) mandates controls and reporting requirements over advisory and assistance services procured by the federal government. Congress recognizes that the procurement of these services is a legitimate way to improve government operations yet passed this act in order to minimize the potential for waste and abuse of U.S. government resources. Office of Management and Budget Circular (OMB) A-120 mandates the specific controls over advisory and assistance services that agencies are to implement. A.I.D.'s Procurement Executive is responsible for ensuring that these controls are carried out. He has delegated this oversight responsibility to the Office of Procurement Policy and Evaluation Staff (PPE).

The Money and Finance Act also requires each Inspector General (IG) to report annually on agency implementation of these controls. This report represents A.I.D.'s Office of the Inspector General report covering fiscal year 1992. (See page 1)

Audit Objective

We audited the A.I.D. Washington and four overseas contract offices in accordance with generally accepted government auditing standards to answer the following questions:

1. Does A.I.D. classify advisory and assistance services contracts in accordance with OMB Circular A-120?

2. Does A.I.D. manage advisory and assistance services in accordance with OMB Circular A-120 provisions which relate uniquely to advisory and assistance services?

We conducted field work from October through December 1992. Appendix I contains a complete discussion of the scope and methodology for this audit including some scope limitations. (See page 2)

Summary of Audit

OMB Circular A-120 provides broad definitions and exclusions for what is to be considered advisory and assistance services. Although A.I.D. IG auditors and Agency officials agree that A-120 guidance is vague in certain instances, A.I.D.'s Procurement Policy and Evaluation Staff (PPE) needed to improve upon this guidance to ensure that agency contract officers correctly classify advisory and assistance services contracts within the context of A.I.D.'s unique procurement environment. At the same time, management controls required by A-120 and Agency implementing guidance on contracts that the Agency did consider to be for advisory and assistance services were not followed. The result of this noncompliance is a potential risk that advisory and assistance services contracts were not properly justified or monitored. These problems exist even though past audit reports by the IG and PPE's own evaluations of contract offices noted that the problems were occurring.

Audit Findings

A.I.D. Needs To Expand Its Guidance For Classifying Advisory and Assistance Services

A.I.D.'s Office of Procurement Policy and Evaluation Staff was aware of OMB guidance stating that contracts benefitting the host country and for personal services contractors are applicable to the provisions of A-120, but did not take appropriate measures to ensure that this guidance was delivered to and implemented by contract officers. This has caused A.I.D. contract officers to misclassify a significant portion of these types of contracts. We found that 300 or 84 percent of the 358 contracts reviewed that A.I.D. contract officers determined were not for advisory and assistance services were actually for advisory and assistance services. As a result, the extent of advisory and assistance services contracted by A.I.D. has been under reported to the Federal Procurement Data System and the management controls for these contracts envisioned by A-120 have not been applied. (See page 3)

Required Justifications
and Approvals Were Not Obtained

A-120 requires that each advisory and assistance services contract have an appropriate justification and approval before being signed by the contract officers. Of 62 contracts that we reviewed, 22 lacked one or more of the three requirements for an appropriate justification and 17 lacked proper approvals. A.I.D. contract officers and PPE staff stated that these requirements are secondary to other controls mandated by federal procurement regulations and A.I.D. project development procedures and with the exception of additional paperwork, make no difference in the processing of advisory and assistance services contracts. Notwithstanding these other controls, A-120 requirements designed to lessen the potential for unnecessary or wasteful contracting of advisory and assistance services were not implemented. (See page 12)

A.I.D. Needs To Establish Procedures
for Collecting and Utilizing Evaluations

Federal regulations require that written evaluations of completed advisory and assistance services contracts be completed in order to assess the utility of the contract to the Agency and the performance of the contractor. A copy of the evaluation is to be placed in the contract file and a second copy sent to the A.I.D. Advisory and Assistance Services Executive. Our audit determined that there is not an effective plan or procedure for obtaining or using such evaluations. Of the 19 completed contract files that we examined, only 1 had a completed evaluation in the file. Our inquiry with the Advisory and Assistance Services Executive revealed that his file contained only 8 evaluations on advisory and assistance services for the entire agency. As a result, the lack of a reliable contract final evaluation process diminished the agency's ability to assess and monitor the performance of contractors. (See page 15)

Summary of Recommendations

To correct the problems discussed in this report, we are recommending the following actions.

- The Procurement Executive should develop Agency guidance on the classification of advisory and assistance services that takes into account A.I.D.'s specific procurement environment. (See page 4)

- The Procurement Executive should reclassify those contracts that have been incorrectly classified as not being for advisory and assistance services or ensure that users of A.I.D.'s contract data are aware of the discrepancies found by our audit. (See page 4)

- The Procurement Executive should ensure that problems identified by his own contract office evaluation process are adequately addressed. (See page 4)

- The Procurement Executive should emphasize the need to comply with management control requirements of OMB Circular A-120 as well as develop procedures for the collection and use of evaluations for advisory and assistance services. (See pages 12 and 15)

Management Comments and Our Evaluation

A.I.D. management reviewed the draft report and provided us with written comments. These comments were considered in preparing this final report and are included in their entirety as Appendix IV.

A.I.D. management only commented on two recommendations, both of which are directed at improving A.I.D.'s performance in classifying advisory and assistance services contracts. In this regard, A.I.D. agreed with our recommendation to inform its contract officers that contracts that benefit third parties were subject to the advisory and assistance services provisions. A.I.D. has already taken action to implement this recommendation. A.I.D. management did not agree, however, that it was necessary to have contract offices provide A.I.D.'s Procurement Executive with action plans for correcting problem areas noted by the Executive's evaluation staff during evaluations of the contract offices' procurement process. We disagree with A.I.D.'s position on this recommendation.

Office of the Inspector General

Office of the Inspector General
March 29, 1993

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INTRODUCTION

Background

Federal agencies contract for advisory and assistance services as a legitimate way to improve government services and operations. Congress recognizes the legitimate need for advisory and assistance services, but also recognizes the potential for waste and abuse in the procurement of such services without adequate controls. As such, the Congress enacted the Money and Finance Act (Public Law 97-258) which mandated that controls and reporting requirements over advisory and assistance services be developed.

Office of Management and Budget (OMB) Circular A-120 established these government wide controls and provides guidance for federal agencies to follow in managing and reporting on these services. This guidance has been incorporated into the Federal Acquisition Regulation (FAR)[1], A.I.D. Acquisition Regulations (AIDAR), and A.I.D. Contract Information Bulletins.

Last year A.I.D. estimated that it would spend $99.3 million in fiscal year 1992 on contracted advisory and assistance services. The contract officers in the A.I.D./Washington Office of Procurement and the overseas contract offices are responsible for procuring these services in accordance with the regulations and guidance mentioned above. The Directorate for Finance and Administration's Procurement Policy and Evaluation Staff develops Agency policies and conducts evaluations of the contract offices compliance with the regulations and policies. Overall responsibility for the procurement of advisory and assistance services in A.I.D. rests with the Associate Administrator for Finance and Administration and the Deputy Associate Administrator for Finance and Administration who serve as A.I.D.'s designated Advisory and Assistance Services Executive and Procurement Executive, respectively.

[1] The Federal Acquisition Regulation (FAR) brings together in Chapter 1, Title 48 of the Code of Federal Regulations the procurement regulations that apply to all agencies of the federal government. Contract officers rely on the FAR, which is supplemented by specific agency policy, for guidance in conducting the contracting actions of the agency.

Public Law 97-258 also 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 over advisory and assistance services and improving the accuracy and completeness of data provided to the Federal Procurement Data System (FPDS)[2]. Accordingly, the A.I.D. Inspector General has issued annual reports on this subject since 1982. Last year's report, cited problems in A.I.D.'s compliance with the approval and performance evaluation requirements for advisory and assistance services.

Audit Objectives

The Office of Program and Systems Audits of the Office of the Inspector General, with the assistance of four regional audit offices, designed and performed the audit to answer the following questions.

1. Does A.I.D. classify advisory and assistance services contracts in accordance with OMB Circular A-120?

2. Does A.I.D. manage advisory and assistance services in accordance with OMB Circular A-120 provisions which relate uniquely to advisory and assistance services?

We did not assess compliance with every law and regulation applicable to the two objectives. Rather, we tested whether A.I.D. followed applicable internal control procedures and complied with certain requirements of laws and regulations that we considered to be significant in classifying and managing advisory and assistance services contracts. Our work was sufficient to provide reasonable -- but not absolute -- assurance of the accuracy of our findings and of detecting abuse or illegal acts that could affect the audit objectives. When we found problem areas, we identified the cause and effect of the problem and made recommendations to correct them. See Appendix I for the scope and methodology of this audit including some scope limitations.

[2] The Federal Procurement Data System (FPDS) is the federal government's centralized contract database. All federal agencies and departments report their contracting activity to the FPDS. The information is then made available to the public and Congress.

REPORT OF AUDIT FINDINGS

Does A.I.D. classify advisory and assistance services contracts in accordance with OMB Circular A-120?

A.I.D. does not classify advisory and assistance services in accordance with OMB Circular A-120 primarily because existing guidance does not adequately address the unique aspects of A.I.D.'s procurement environment.

A.I.D. Needs To Expand Its Guidance For Classifying Advisory and Assistance Services

OMB Circular A-120 provides broad guidance to all agencies of the federal government for classifying and reporting advisory and assistance services. A.I.D.'s Procurement Executive is responsible for ensuring that contract officers know how to apply the provisions of A-120 within the Agency's specific procurement environment. The audit found that A.I.D. contract officers misclassify contracts benefitting host countries, contracts which make up a significant portion of A.I.D.'s contract portfolio, because existing guidance does not adequately address such contracts. In addition, the audit found that some contract officers did not consider Circular A-120 to apply to contracts with personal services contractors, a type of contract commonly used in A.I.D., even though guidance to the contrary had been issued by the Agency. These conditions exists even though routine evaluations of contract offices by the Procurement Executive have disclosed noncompliance with the provisions of A-120. Accordingly, this misclassification has primarily resulted in the under reporting on the extent of A.I.D.'s procurement of advisory and assistance services. Furthermore, these misclassified contracts have not been subject to the special management controls intended by A-120 for advisory and assistance services contracts.

Recommendation No. 1: We recommend that the Procurement Executive:

1.1 develop Agency policy guidance which states that all contracts for services, including contracts benefitting a host country or third party and contracts with personal services contractors be considered as advisory and assistance services unless the contract in question meets one of the exclusions in A-120;

1.2 reclassify the contracts in the Contract Information Management System and those contracts reported to the Federal Procurement Data System which should have been classified as advisory and assistance services or obtain a waiver from such action from the Office of Management and Budget;

1.3 notify in writing the Federal Procurement Data Center of the misclassification of advisory and assistance services contracts as identified in this audit report and suggest that a disclaimer be issued whenever the fiscal year 1992 data on A.I.D.'s advisory and assistance services contracts is used if the waiver cited in recommendation 1.2 is obtained; and

1.4 establish procedures for requesting written action plans from contract offices to address any problem areas dealing with advisory and assistance services contracts that are discovered during the evaluation of contract offices.

OMB Circular A-120, dated January 4, 1988, establishes general guidelines for classifying advisory and assistance services contracts in the federal government. Originally, A-120 applied only to consulting services. Over the years the scope of its application has expanded significantly.[3] Officials at A.I.D.'s Office of Procurement Policy and Evaluation Staff (PPE) and the Office of Management and Budget (OMB) indicated that under existing guidance the vast majority of A.I.D. contracts, excluding commodity purchases and construction contracts, should be classified as advisory and assistance services contracts.

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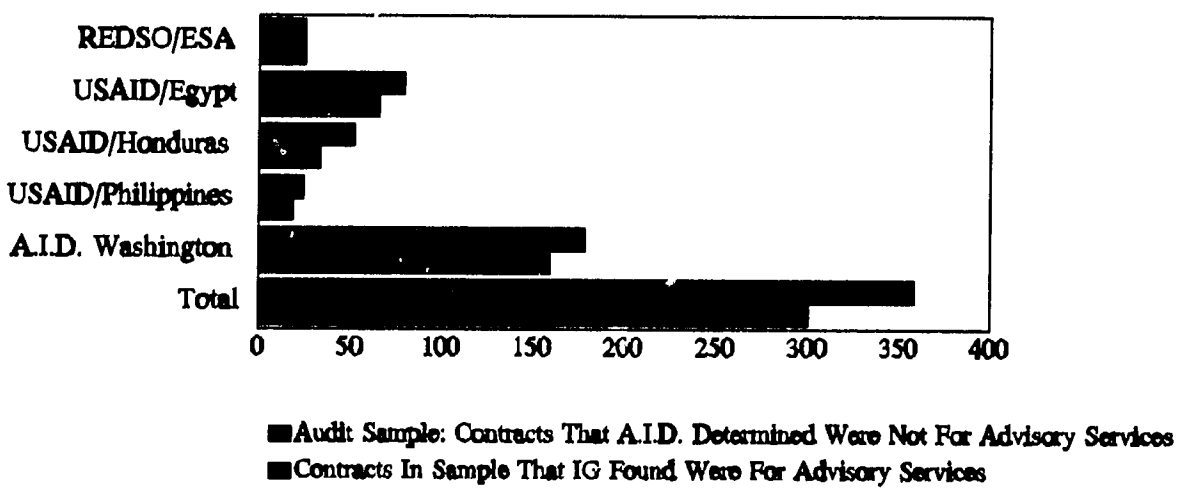
[3] Office of Management and Budget's guidance in this area is continuing to be redefined in a new policy letter that is currently pending release. The draft of this policy letter would eliminate the separate classification of advisory and assistance services. (Federal Register/Vol. 56, No. 245/Friday, December 20, 1991/Page 66091)

Officials at OMB told us that each agency was responsible for developing internal guidance to implement A-120 which meets the specific operating environment of the agency. Executive Order 12352 establishes the role of the Procurement Executive in each federal agency and assigns broad responsibilities to this position for procurement matters. The A.I.D. Acquisition Regulations assign responsibility to the Procurement Executive for the "implementation of A.I.D.'s unique procurement policies, regulations, and standards," as well as for evaluating the procurement system's performance in accordance with agency policies. The Agency's Procurement Executive has delegated to PPE the responsibility for carrying out these tasks.

We reviewed 358 contracts that were determined by contract officers to not be for advisory and assistance services. We determined that 300 -- or 84 percent -- of the contracts should have been classified as advisory and assistance services. See Appendix II for additional details.

Analysis of Audit Samples:
Contracts That A.I.D. Determined Were Not For Advisory And Assistance Services



A factor contributing to this high rate of misclassification was A.I.D.'s failure to provide its contract officers with sufficient guidance to enable them to correctly

determine the classification of contracts that benefit host countries.[4] These contracts make up a significant portion of A.I.D.'s contract portfolio. Another factor, albeit less significant, was that some contract officers did not consider Circular A-120 to apply to contracts with personal services contractors, a type of contract commonly used by A.I.D., despite the fact that the Agency had issued guidance to the contrary.

In January 1991, OMB clarified A-120 by issuing a memorandum to all Procurement Executives stipulating that the beneficiary of a contract is irrelevant as to the determination of whether the contract is for advisory and assistance services. The memorandum stated that "contracts in which the contractor is providing technical assistance or advice that benefits a third party are advisory and assistance services in the context of OMB Circular A-120". In anticipation of OMB's memorandum, A.I.D., in 1990, amended its own acquisition regulations to delete a section which stated that consulting services [advisory and assistance services] that benefit a host country were not considered to be consulting services.

However, A.I.D.'s Procurement Executive did not ensure that OMB's memorandum regarding third party beneficiaries reached A.I.D.'s contract officers. Five contract officers that we interviewed in A.I.D. Washington as well as contract staff at the four overseas offices indicated that they were not aware of the January 1991 OMB clarification that stated that advisory and assistance services contracts included actions benefitting a host country or third party. In fact, officers at two of the four overseas offices reviewed were using Mission Orders[5] that stated that contracts benefitting the host country were not for advisory and assistance services.

In addition, the audit found that contract officers were not classifying personal services contractors in accordance with A-120. For example, contract officers at two overseas offices indicated that personal service contractors are never considered to be advisory and assistance services. A-120 does not, however, exclude personal services contractors and in fact, a policy memorandum put out by PPE states that "requirements established by OMB Circular A-120 for Advisory and Assistance services also apply to personal services contractors."

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[4] Contracts benefitting the host country are contracts where the services directly benefit the developing country that A.I.D. is assisting (a third party to the contract). These contracts would involve a project, such as agricultural credit reform or population studies, undertaken for the benefit of the host country. Contracts benefitting the agency are contracts for services such as evaluations, management reviews or systems implementation relating to agency functions.

[5] Mission Orders are official policies or procedures of the respective Mission. Staff assigned to the Mission are required to adhere to the applicable Mission Orders as well as the FAR and Agency policies.

A.I.D. was aware of problems with classifying advisory and assistance contracts through previous audit reports and as a result of routine evaluations of the procurement process performed by PPE. For example, the Office of the Inspector General, in a February 1992 report, stated that A.I.D. should consider developing a uniform definition for contract officers to follow.

In regard to evaluations of the procurement process, Executive Order 12352 requires each federal agency procurement executive to review and certify to the head of their respective agency the agency's compliance with procurement procedures. The evaluation of contract offices is intended to serve as a vital internal control and feedback mechanism on A.I.D.'s procurement function. During 1992, PPE evaluations of five Agency contract offices that procure advisory and assistance services determined that each office was not complying with the Federal Acquisition Regulation and Agency policies which implement A-120. In all five cases, PPE did not offer suggestions to the respective contract offices on how to correctly implement the regulations and policies and in fact inferred that the contract offices were not expected to take any corrective action. PPE did however report these problems to the A.I.D. Administrator as the following excerpt from the 1992 certification illustrates. ([] and bold added)

> The Agency is in a vulnerable position, particularly in the areas where the Federal or A.I.D. Acquisition Regulations are not being followed. Such areas as documentation for small purchases, contract administration, personal services contracting, **and advisory and assistance services** have specific rules and procedures to be followed. Unfortunately, the problems are directly related to scarce personnel and operating expense resources. To correct these deficiencies usually requires staff (US or FSN, direct hire or contract). In discussions during the evaluations [of contract offices], the [evaluation] teams have become convinced that many of the problems, particularly in small purchases and personal services contracts, are directly attributable to a lack of adequate training. Training funds for contracting personnel overseas are also extremely limited. In short, it would take a concentrated effort backed with adequate resources to see much improvement in these weaknesses in the next couple of years.

Nonetheless, PPE's decision not to address problems which were in its capacity to correct and raised by its own evaluations has in effect diminished the overall usefulness of the evaluation process in regard to advisory and assistance services and the intent of Executive Order 12352. It is not clear why A.I.D. did not provide contract officers with better guidance. PPE staff did state that they felt that A-120 is so vague that it is impossible to provide consistent guidance on the subject.

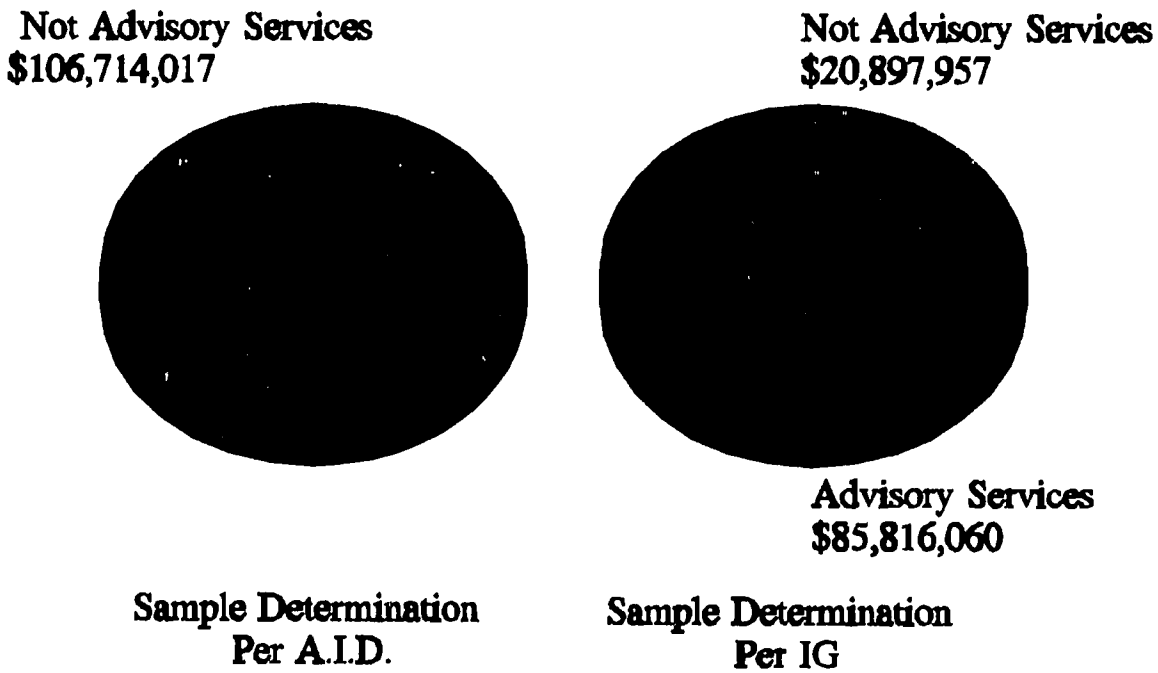
The primary effect of inadequate guidance is that A.I.D. has not classified as many contracts as advisory and assistance services as it should have. A secondary effect is that the misclassified advisory and assistance services contracts do not include the justifications and approvals required for advisory and assistance services by the Federal Acquisition Regulation (FAR) and A.I.D. Acquisition Regulations. These requirements are more fully discussed under the second objective. (See pages 11 through 16).

A third effect of the misclassification is the under reporting of advisory and assistance services to both the Federal Procurement Data System (FPDS) and Congress. The FAR (Section 4.602) requires agencies of the U.S. Government to report all contract actions to the FPDS. The magnitude of advisory and assistance services contracted by the Agency is part of this FPDS report. Furthermore, all agencies report the magnitude of their consulting services (advisory and assistance services) contracts to the Congress in their Annual Budget Submissions.[6] A.I.D. relies on information in its Contract Information Management System (CIMS) database to meet these two reporting requirements. However, because of the misclassification of contracts, information in the CIMS database with respect to advisory and assistance services contracts is incorrect and reports generated or based on this information could be significantly misleading.

[6] On October 23, 1992, the Office of Management and Budget revised OMB Circular A-11 which provides guidance to federal agencies on the preparation and submission of their annual budget estimates. This revision, among other things, changes the definition that agencies are to use for reporting consulting services. Before this revision, agencies used the definition of advisory and assistance services set forth in OMB Circular A-120. The new definition appears more limited. By the end of the audit, it was unclear to what extent, if at all, the classification problem that we found during this audit would effect A.I.D.'s reporting of consulting services under the new definition. A.I.D's Office of Budget, which is responsible for preparing the report, was made aware of the audit findings and was consulting with OMB on the matter.

The following chart demonstrates the discrepancy with regard to the contracts that we reviewed.[7]

Analysis of Audit Sample: Contracts That A.I.D. Determined Were Not for Advisory and Assistance Services



We concur with PPE's opinion that A-120 is vague in some respects as to the definition of advisory and assistance services; and we understand their frustration with the evolving changes made by OMB. However, we feel that the significant misclassification that we discovered occurred due to incomplete policy guidance that PPE could have provided and in fact is charged with providing per the A.I.D. Acquisition Regulations.

Aside from the effect of the inaccurate specific classification of each contract as or as not for advisory and assistance services, another method of determining the extent of services contracting by the Agency is available. Our inquiries with other Federal Agencies and Offices, for instance, the Federal Procurement Data Center and the

[7] $17.8 million of these contracts were originally classified in CIMS as for advisory and assistance services. However, the responsible contract office identified them as not being for advisory and assistance services and stated that they were incorrectly recorded in CIMS. They are included in the audit sample in order to reflect the A.I.D. contract office's determination that they were not for advisory and assistance services.

General Accounting Office (GAO) indicated that there may be more effective and efficient methods to distinguish advisory and assistance services contracts from other contract types. One possible method would be to link the determination of advisory and assistance services contracts to product/services codes which are assigned to all contracts recorded in the Agency's Contract Information Management System (CIMS) and reported to the Federal Procurement Data System (FPDS). The audit indicated that there was a direct relationship between certain product/service codes and advisory and assistance services.

Currently the CIMS database has over 60 fields of data, containing information such as contract number, total estimated cost, date signed, advisory and assistance services, and product/services codes. The advisory and assistance services field is recorded as "yes" or "no" depending on whether the contract is for advisory and assistance services. The product/services field is recorded as a four character code corresponding to the type of product/service being procured. For example, R421 represents "Technical Assistance", B507 "Economic Studies", R407 "Program Evaluation Services", S201 "Janitorial Services" and T011 "Print/Binder Services". These codes are required by the FPDS reporting manual and represent the specific predominate service or product being procured by the government. Although there is also a risk that these codes may be incorrectly classified in the Agency database, it appears that the determination of whether a contract is for an "Economic Study" versus "Janitorial Services" is easier to make than the yes/no decision for the advisory services field.

A computer application could be developed to determine whether a contract was advisory and assistance services based on the use of product/service codes. For example, "Economic Studies" and "Technical Assistance" are advisory and assistance services, "Print/Binder Services" and "Janitorial Services" are generally considered as not advisory and assistance services. Therefore, if B507 or R421 is entered as a product/service the computer would automatically classify the contract as advisory and assistance services. If code S201 or T011 were entered, the computer would classify the contract as not for advisory and assistance services.

A.I.D. may want to consider this alternative approach. We found that at least one other Federal Department (Commerce) relies solely on product/service codes in order to determine, classify and report on whether contracts are for advisory and assistance services.

In conclusion, A.I.D. contract officers do not correctly classify advisory and assistance services contracts, especially those benefitting host countries and those with personal services contractors, because of inadequate guidance and other problems. This misclassification has resulted in a significant under reporting of advisory and assistance services contracts for fiscal year 1992. To correct the cause and condition of this problem, A.I.D. needs to develop and issue guidance to its contract officers with respect to these contract types and either correct the classification of those contracts in its Contract Information Management System database that are misclassified or take measures to ensure that any use of the incorrect contract information is appropriately qualified.

Management Comments and Our Evaluation

In response to the report, A.I.D's Procurement Executive agreed that contract officers apparently were not aware of OMB's determination that the advisory and assistance services requirements applied to A.I.D. direct contracts which benefit a third party beneficiary. To remedy this situation, the Procurement Executive issued Contract Information Bulletin 93-6 to all contract officers and negotiators which states that contracts for the benefit of third parties were covered by the advisory and assistance procedures. For this reason we consider recommendation 1.1 resolved. It can be closed upon reissuance of guidance to contract officers that remind them that contracts for Personal Services Contractors are also subject to the advisory and assistance services procedures.

The Procurement Executive did not comment on Recommendations 1.2 and 1.3, but disagreed with Recommendation 1.4. In regard to this latter recommendation, the Procurement Executive stated that although his office evaluated contract offices' compliance with the advisory and assistance services requirements, it was not the role of his office to request contract offices to provide action plans for correcting problems noted during these evaluations. We disagree with this position. The evaluations performed by the Procurement Executive's Office of Evaluations represent an internal control technique designed to better ensure that A.I.D.'s procurements are performed in accordance with applicable regulations. The effectiveness of this control technique is diminished if the problems identified during evaluations are not corrected. Requesting action plans for correcting problems identified during these evaluations would better ensure that these problems are in fact corrected. Accordingly, these three recommendations remain unresolved.

Does A.I.D. manage advisory and assistance services in accordance with OMB Circular A-120 provisions which relate uniquely to advisory and assistance services?

A.I.D. does not manage advisory and assistance services in accordance with OMB Circular A-120 provisions which relate uniquely to advisory and assistance services.

We reviewed two specific requirements associated with advisory and assistance services contracts. These requirements are the justification and approval of advisory and assistance services contracts and the completion of a final evaluation on the contractors performance and utility of the contract to the agency. Contract officers are responsible for documenting in the contract files that these tasks are completed. Nearly all of our audit work in this area was completed in A.I.D. Washington contract offices. This occurred because the overseas offices that we visited determined that very few contract actions in fiscal year 1992 were for advisory and assistance services. In fact, USAID/Egypt and Regional Economic Development Services Offices for East and Southern Africa (REDSO/ESA) contract officers stated that they considered none of their contracts to be for advisory and assistance services. (See Appendix III for details.) Our audit of the contract files indicates that the justifications and approvals and the evaluations have not been documented by the contract officers.

Required Justifications and Approvals Were Not Obtained

Federal regulations require contract officers to obtain appropriate justifications and approvals from project officers for any contract that the contract officer determines to be for advisory and assistance services. A.I.D. Washington contract offices did not ensure that these justifications and approvals were obtained. This occurred because contract officers were either not aware of the requirement or did not ensure that project officers complied with Agency policy. Contract officers stated that the justifications and approvals were not critical management controls. Although the effect of these control failures may be mitigated by other Agency procedures, there is a risk where the justifications and approvals were not obtained that the contract may be unnecessary, duplicate previous work, or included tasks that could be performed by agency personnel.

Recommendation 2: We recommend that the Procurement Executive reissue instructions to project and contract officers describing their responsibilities with respect to complying with the justification and approval requirements for advisory and assistance services contracts.

The Federal Acquisition Regulation (FAR) (Section 37.206) states that requests for advisory and assistance services shall contain a "written justification of need and certification that such services do not unnecessarily duplicate any previously performed work or services." A.I.D. Acquisition Regulation (AIDAR) (Section 737.206(c)(2)) further defines this requirement by specifying that the justification must state (1) the "Need and Utilization" of the service to the Agency, (2) that a "Review of Prior Work" was performed to ensure that the service does not duplicate prior work and (3) that there does not exist an "In-House Capacity" available to complete the task. Our audit of 62 contract files showed that 22 of the contract justifications did not contain one or more of the three justification requirements that we examined. (See Appendix III for details.)

The AIDAR also establishes specific approval levels for the justification which the contract officer is required to have before executing the contract. The level of approval is dependant on the total estimated cost of the contract and the quarter in which the request for the contract was signed. Justifications for contracts with a total estimated cost over $1 million must be signed by the A.I.D. Advisory and Assistance Services Executive. Justifications made in conjunction with a request signed during the first through third quarters of the fiscal year must be approved at an administrative level one office higher than the requesting office. Justifications made in conjunction with a request signed during the fourth quarter of the fiscal year must be signed at an administrative level two offices higher than the requesting office.

We examined the same 62 contracts mentioned above to determine if appropriate approvals had been obtained in regard to the fiscal quarter for which the contract request was signed.[8] Our audit determined that 17 of the 62 had not been properly approved in accordance with the regulations enacting OMB Circular A-120.

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[8] We did not audit the requirement for justifications over $1 million to be approved by the Advisory and Assistance Services Executive because of limitations in the availability of data from the Contract Information Management System.

Contract officers did not always ensure that project officers complied with Agency policies requiring justifications and approvals because they either did not have the time to obtain the justification or they overlooked the requirements. Also, in cases where they did receive the justification, it was not always placed in the contract file. The Procurement Executive certification to the A.I.D. Administrator, as cited on page 7, also suggests that these and other problems related to the contract offices are due to scarce personnel and operating expense resources, and the lack of adequate training.

Officials in the Office of Procurement Policy and Evaluation Staff also told us that these requirements were in their opinion secondary to other FAR requirements and thus A.I.D. management placed little emphasis on them. One contract officer at an overseas mission echoed this opinion. He stated that the requirements are not an important element of the contractual process and that with the exception of additional required paperwork, there is no difference in processing advisory and assistance services contracts than other types of contracts. Furthermore, he stated that other controls in the contract process would mitigate any adverse consequence of a contract not being correctly classified or not obtaining the required justifications and approvals for advisory and assistance services contracts.

The result of this noncompliance with the FAR and AIDAR is the potential that appropriated funds duplicated prior work, could have been completed by in-house personnel and/or the need and utility of the contracted service was lacking and thus unnecessary. Although the justification and approvals are specifically designed to ensure the necessity of the contract, it should be noted that other documentation compiled by A.I.D. project officers may partially justify the contract actions.

In conclusion, we believe that increased management attention and renewed emphasis by project and contract officers on completing the justification and approval requirements are needed if these requirements are to be implemented. We believe that our recommendation to issue instructions will bring increased management attention to this subject. In developing these instructions, we believe that the Office of Procurement Policy and Evaluation Staff should consider the other documentation requirements assigned to and completed by contract and project officers in the course of developing and implementing projects and contracts.

Management Comments and Our Evaluation

A.I.D. management did not comment on this finding or on Recommendation 2. As a result, the recommendation is considered unresolved.

A.I.D. Needs To Establish Procedures for Collecting and Utilizing Evaluations

Federal regulations require contract officers to obtain evaluations of individual advisory and assistance services contractors from project officers at the end of the contract. However, evaluations are not always obtained because there is no effective plan or procedure for obtaining such evaluations. As a result, when evaluations are not obtained, the agency's ability to assess the performance of contractors is diminished.

Recommendation 3: We recommend that the Procurement Executive develop and issue procedures for the collection and use of evaluations for advisory and assistance services contracts in the contracting process.

OMB Circular A-120 requires a written evaluation of an advisory and assistance services contract at the conclusion of the contract. The evaluation is to assess the performance of the contractor and the utility of the contracted action to the Agency. The A.I.D. Acquisition Regulations (AIDAR) (Section 737.206) requires a copy of the evaluation be placed in the contract file and a second copy be sent to the A.I.D. Advisory and Assistance Services Executive. If a particular project office does not provide the evaluations on a timely basis, the Advisory and Assistance Services Executive may refuse to process further requests for contract actions until such evaluations are completed.

Staff at the Office of Management and Budget (OMB) told us that project officers overseeing contractors should maintain an evaluation folder on the contractors performance throughout the contract period. If this is the case, a summary evaluation at the end of the contract should be easy to complete.

Of the 19 completed contracts that we examined, only one evaluation was in the contract file. This evaluation was found at USAID/Honduras, which in this case was

the only advisory and assistance services contract completed in fiscal year 1992 at that mission. USAID/Philippines and USAID/Egypt as well as Regional Economic Development Services Offices for East and Southern Africa (REDSO/ESA) officials stated that none of the contracts completed at those missions in fiscal year 1992 were for advisory and assistance services. The remaining 18 completed contracts were all from A.I.D./Washington contract offices.

We also examined the entire collection of evaluations in the Advisory and Assistance Services Executive's files. There were only 8 contract evaluations on completed advisory and assistance services contracts for the entire agency and none of these covered the 19 contracts that we reviewed.

Contract officers told us that they do not have procedures for checking to see that evaluations are completed when finalizing contracting activities. In fact, we did not find any control procedures for ensuring that evaluations are placed in the contract file or sent to the Advisory and Assistance Services Executive.

In March of 1992, the Office of Procurement Policy and Evaluation Staff issued a reminder to contract officers of this requirement in response to last year's Inspector General audit report which also cited problems with the evaluation of advisory and assistance services contracts. The reminder asked contract officers to inform project officers of their responsibility to complete contract evaluations; however, it did not specify any new procedures for ensuring that evaluations are completed. Because the contract officers do not require project officers to complete evaluations, no record of the contractors performance is developed and maintained by the agency for possible use in future contracting decisions.

On January 11, 1993, the Federal Register contained OMB Policy Letter 92-5 "Past Performance Information". This policy letter, while not directly applicable to the findings in this audit, requires agencies to develop a performance information system that will compile information on the performance of all contractors doing work for the agency. This information, essentially an evaluation, will be required on contracts over $100,000. Furthermore, the policy letter states that the information is to be used when considering future solicitations by a contractor.

The Office of Procurement Policy and Evaluation Staff has suggested that the requirements of A-120 and our recommendation 3 be combined with the new requirements of OMB Policy Letter 92-5. We concur that this would be appropriate and in fact warranted. We believe that such a system, when developed by the

Agency, will ensure improved monitoring and documentation of contract activities.

In conclusion, potentially useful information pertaining to the performance of advisory and assistance services contractors and the utility of advisory and assistance services contracts was not always being obtained as required by federal regulations. To correct this situation, A.I.D.'s Procurement Executive needed to develop procedures for the collection and use of evaluations for advisory and assistance services contracts in the contracting process.

Management Comments and Our Evaluation

A.I.D. management did not comment on this finding or Recommendation 3. As a result, Recommendation 3 is considered unresolved.

REPORT ON INTERNAL CONTROLS

This section provides a summary of our assessment of internal controls for the two 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 satisfy the audit objectives, and

- report on the controls assessed, the scope of the work, and any significant weaknesses found during the audit.

We limited our assessment of internal controls to those controls applicable to the audit's objectives and not to provide assurance on the auditee's overall internal control structure.

We classified significant internal control policies and procedures applicable to each audit objective by categories. 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.

General Background on Internal Controls

Under the Federal Manager's Financial Integrity Act and the Office of Management and Budget's implementing policies, A.I.D.'s management is responsible for establishing and maintaining adequate internal controls. The General Accounting

Office has issued "Standards for Internal Controls in the Federal Government" to be used by agencies in establishing and maintaining internal controls. The objectives of internal controls and procedures for Federal foreign assistance are to provide management with reasonable--but not absolute--assurance that resource use is consistent with laws, regulations, and policies; resources are safeguarded against waste, loss, and misuse; and 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. Predicting whether a system will work in the future is risky because (1) changes in conditions may require additional procedures or (2) the effectiveness of the design and operation of policies and procedures may deteriorate.

Conclusion for Audit Objective One

Does A.I.D. classify advisory and assistance services contracts in accordance with OMB Circular A-120?

We reviewed the agency's internal controls relating to the classification of advisory and assistance services. The key control is:

- Contract officers review requests for contracting actions to determine whether the requested action is for advisory and assistance services.

Our assessment showed that A.I.D. had established this control but it was not properly designed or implemented because:

- The guidance which defined advisory and assistance services was inadequate. This inadequate guidance resulted in a failure of the contracting officers to correctly identify which requests for contracting actions were for advisory and assistance services.

Conclusion for Audit Objective Two

Does A.I.D. manage advisory and assistance services in accordance with OMB Circular A-120 provisions which relate uniquely to advisory and assistance services?

We reviewed the agency's internal controls relating to the management of advisory and assistance services. We limited this review to what we determined to be key

internal controls related specifically to advisory and assistance services. The key controls that we reviewed are:

- Contract officers review requests for advisory and assistance services contracting actions in order to determine if proper justifications and approvals have been submitted.

- Contract officers require a written evaluation of the advisory and assistance services contract from project officers at the end of the contracting period.

- A copy of the required evaluation is retained in the contract file and the office of the Advisory and Assistance Services Executive

Our assessment showed that the controls were not properly designed and/or implemented as follows:

- Contracting Officers did not consistently review justifications and approvals for advisory and assistance services in order to determine if they were sufficient; and

- No properly designed system was in place to ensure that contracting officers received evaluations of contractors. Furthermore, no system was in place to ensure that any evaluations which were completed, were placed in the contract file or delivered to the office of the Advisory and Assistance Services Executive.

Conclusions on Controls Related to both Audit Objectives

We reviewed the agency's internal controls relating to the advisory and assistance services. We limited this review to what we determined to be key internal controls related specifically to advisory and assistance services. The key controls that we reviewed are:

- A single official reporting to the head of the Agency is assigned oversight responsibility for advisory and assistance services; and

- The Office of Procurement Policy and Evaluation Staff conducts evaluations of the contracting offices of the Agency and reports any

noncompliance with Agency policies to appropriate management officials. This evaluation process serves as an "Alternative Internal Control Review" as envisioned by OMB Circular A-123 and is intended by the Agency to comply with the Federal Manager's Financial Integrity Act.

Our assessment showed that the control for a single official having oversight responsibility for advisory and assistance services was properly implemented; however, the control relating to evaluations of contracting offices by the Office of Procurement Policy and Evaluation Staff was not properly designed and/or implemented as follows:

- The Office of Procurement Policy and Evaluation Staff failed to act on the evaluations of contracting offices that it completed with regard to advisory and assistance services. These evaluations indicated that noncompliance with A-120 provisions was occurring.

REPORT ON COMPLIANCE

This section summarizes our conclusions on A.I.D.'s compliance with applicable laws and regulations relating to advisory and assistance services.

Scope of Our Compliance Assessment

We conducted our audit in accordance with generally accepted government auditing standards, except that we did not design the audit to provide reasonable assurance of detecting abuse and illegal acts for all advisory and assistance services contracts awarded in fiscal year 1992. Our audit procedures were sufficient to detect abuse and illegal acts that could significantly affect the audit objectives. Government auditing standards require that we:

- assess compliance with applicable requirements of laws and regulations when necessary to satisfy 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.

We tested A.I.D.'s compliance with selected requirements of OMB Circular A-120 as promulgated in the Federal Acquisitions Regulation Subpart 37.2 and the A.I.D. Acquisition Regulations (AIDAR) Subpart 737.2. We also reviewed A.I.D.'s compliance with certain elements of Executive Order 12352 "Federal Procurement Reform". However, our tests were not designed to provide an opinion on A.I.D.'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 an organization's 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. Not following internal control policies and procedures in the A.I.D. Handbooks generally does not fit into this definition of noncompliance.

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.

Compliance with OMB Circular A-120, the Federal Acquisition Regulation (FAR), and AIDAR is the responsibility of the Agency's contracting officers and to a lesser extent of the project officers who request contracting actions for advisory and assistance services. Management oversight responsibility is placed on A.I.D.'s Advisory and Assistance Services Executive by A-120 and the AIDAR and on the Procurement Executive by Executive Order 12352. The Procurement Executive has in turn delegated certain oversight functions to the Office of Procurement Policy and Evaluation and the Office of Procurement.

Conclusions on Compliance

A.I.D. did not comply with the significant regulatory requirements that we examined (see scope and methodology) for advisory and assistance services as follows:

- FAR 37.207 requires contract officers to determine whether any requested contractual action is for advisory and assistance services.

  Contract officers failed to correctly determine that 300 out of 358 requested contractual actions that we reviewed were for advisory and assistance services. (Please see page 5)

- FAR 37.206(b) requires a written justification of need and certification that such services do not unnecessarily duplicate any previously performed work or services. FAR 37.206(c) requires written approval for such services. AIDAR 737.206 outlines the specific requirements for the justification and the necessary approvals.

The need for advisory and assistance services was not completely justified for 22 out of 62 contracts sampled. (Please see page 13)

Justifications for advisory and assistance services were not properly approved for 17 of the 62 justifications that we reviewed. (Please see page 13)

- FAR 37.205 requires each agency to establish procedures for a written evaluation at the conclusion of the contract to assess the utility of the deliverables to the agency and the performance of the contractor. AIDAR 737.205-70 requires contract officers to implement this requirement.

  A.I.D. had not documented evaluations in accordance with the FAR and AIDAR for 18 of 19 completed contracts that we reviewed. (Please see page 15)

SCOPE AND METHODOLOGY

Scope

The audit was conducted in accordance with generally accepted government auditing standards, except that we did not design the audit to provide reasonable assurance of detecting abuse and illegal acts for advisory and assistance services contracts awarded in fiscal year 1992.

We performed the audit from October 1, 1992 through January 15, 1993 at A.I.D.'s Directorate of Finance and Administration in Washington, D.C., USAID/Egypt, USAID/Honduras, USAID/Philippines and the Regional Economic Development Services Office for East and Southern Africa. These offices were selected based on their proximity to Inspector General audit offices. To determine the universe of contracts, we used the computer-processed data contained in A.I.D.'s Contract Information Management System (CIMS) and/or contract logs at the overseas offices. We did not assess the reliability of this database due to the resource limitations of our audit. As a result, we are unable to provide projections or conclusions on the database as a whole.[1]

The initial audit universe included all contracts awarded by A.I.D. Washington and overseas contract offices. Since most contracts by A.I.D. benefit the host country and since very few of these contracts have been classified as advisory and assistance services, we did not attempt to define the complete extent to which other misinterpretations of A-120, if any, are occurring. Our analysis focused on the issue that contract officers did not consider contracts benefitting the host country or for personal services contractors to be for advisory and assistance services.

Table 1 in the methodology section identifies the contracts A.I.D. determined were not for advisory and assistance services for the audit universe and sample for each office as well as the total universe of contracts recorded in the CIMS database as of November 19, 1992. CIMS staff indicated that all data for fiscal year 92 had not been entered into the system as of this date.

[1] A July 1992 joint report by the Office of Management and Budget and A.I.D. cited significant discrepancies between financial data in the CIMS and other Agency accounting systems. We did not attempt to verify the accounting data for the contracts reviewed with data in other Agency systems.

Methodology

To answer the objectives, we researched applicable legislation, the Federal Acquisition Regulation, and OMB Circulares and Policy Letters. We also examined A.I.D. Acquisition Regulations, A.I.D. Policy Handbooks, and A.I.D. Office of Procurement Policy and Evaluation Staff's Contract Information Bulletins. In addition, we reviewed past Inspector General and GAO reports that were applicable to the objectives.

The specific methodology for each audit objective is described below.

Audit Objective One

We interviewed A.I.D. officials in Washington and at the four overseas offices covered by this audit, as well as, reviewed internal documents and database information to determine if A.I.D. had developed and implemented procedures for correctly determining whether contracts were for advisory and assistance services. Our universe at each office included all contracts with the exception of purchase orders and contracts recorded in the CIMS computer database as being for commodities. Dollar amounts reflect the initial basic obligation for the contract and not any modifications to the contracts.

To determine if A.I.D. Washington contract offices had properly determined whether contracts were for advisory and assistance services, we used computer generated data from the CIMS. This data was initially used to judgmentally select the sample of contract files to be reviewed. The contracts were selected so as to be from different contract offices in A.I.D. Washington. Furthermore, we used the CIMS contract description field to select contracts where, based on our interviews and research, misclassification could occur. Although we examined contracts that were coded yes and coded no for advisory and assistance services, the degree of misclassification of contracts reported as not being for advisory and assistance services led us to concentrate our audit efforts on these contracts.

After we determined that misclassification of contracts was occurring due to specific misinterpretations of policy guidance, we reviewed the CIMS computer generated data to determine the extent of this misclassification. Since we did not assess the reliability of the entire CIMS database, we performed other audit steps to provide reasonable assurance of our findings. These steps included the review of multiple data fields beside the contract description. Also, when we determined that misclassification had occurred based on the CIMS data, we presented the findings to the appropriate contract officers for review.

At the four overseas offices where we conducted reviews, auditors used both the CIMS database and contract office logs to establish a universe of contracts for review. Auditors reviewed the entire universe of contract files or conducted a random sample of the contract files in order to determine if the contracts were properly classified.

TABLE 1[1]

Audit Universe and Sample Tested for Each Location: Contracts Determined by A.I.D. to not be for Advisory and Assistance Services				
Location	Universe[2]		Sample[2]	
	No.	Amount	No.	Amount
REDSO/ESA	25	$25,644,864	25	$25,644,864
USAID/Egypt	79	$11,464,572	79	$11,464,572
USAID/Honduras		See footnote 1	52	$4,459,528
USAID/Philippines	108	$29,995,866	24	$16,936,666
A.I.D./Washington	403	$150,586,888[3]	178	$48,208,387
Total for A.I.D.	911	$298,181,510[3]	358	$106,714,017

1. Contracts for Purchase Orders and Commodities as designated by CIMS were excluded, with the exception of USAID/Honduras.

2. This information was obtained from CIMS, Mission logs and contract officers' determinations as given to auditors.

3. Total Universe for A.I.D. and A.I.D./Washington is based solely on CIMS data as of November 19, 1992.

Audit Objective Two

We interviewed A.I.D. officials in Washington and at the four overseas offices covered by this audit, as well as, reviewed internal documents and database information to determine if A.I.D. had developed and implemented procedures for contract officers to obtain justifications and approvals for advisory and assistance services contracts. We also determined whether contract officers obtained evaluations of contracts at the end of the contract period and placed these contracts in the contract file. We also determined if the contract evaluations were being sent to the Advisory and Assistance Services Executive.

Justifications and Approvals - As in the first objective, we used the CIMS database to select a sample of contracts to review at each office. Auditors at the overseas offices supplemented the CIMS data with contract office logs. Our audit step to test the approval requirement for advisory and assistance services contracts over $1 million was not conducted due to the lack of timely data from the CIMS. Instead we tested the requirement that a justification be included with any request for an advisory and assistance services contract and that the justification be approved by an official one or two organizational levels above the requesting office. Appendix III lists the number of contracts reviewed per contract office.

Evaluation of Contracts - USAID Honduras was the only overseas office where contract staff indicated that a contract for advisory and assistance service had been completed during the 1992 fiscal year. In A.I.D. Washington, limits in the ability of the CIMS to provide timely information again caused us to reduce our audit scope. Instead of relying on the computer database to determine the number of advisory and assistance services contracts completed during the fiscal year, we relied on agency staff to manually compare a listing of advisory and assistance services contracts from the CIMS database with a listing of contracts in the process of final close-out. We located 18 contract files in this manner. We were not able to determine the complete universe of completed advisory and assistance services contracts.

We conducted further review by examining the entire file of evaluations from the Advisory and Assistance Services Executive. Eight contract evaluations were found. We determined that the 8 evaluations were not for the 18 contracts reviewed at A.I.D. Washington or the 1 contract reviewed at USAID Honduras.

Assessment of A.I.D.'s Determination of Whether Contracting Actions Were for Advisory and Assistance Services (Fiscal Year 1992 Basic Obligations[1] over Number of Contracts)

Contracting Office	Advisory Services per Office prior to Audit[2]	Audit Sample: Contracts Determined to not be Advisory Services by Contract Officer	Amount of Sample Audit Determined to be for Advisory Services	% of Sample of Contracts Determined to be for Advisory Services
REDSO/ESA	$0[3]	$25,644,864	$25,644,864	100%
	0	25	25	100%
USAID/Egypt	$0[4]	$11,464,572	$3,570,815	31%
	0	79	65	82%
USAID/ Honduras	$139,619	$4,459,528	$4,036,053	91%
	2	52	33	63%
USAID/ Philippines	$22,434,992[5]	$16,936,666	$16,774,271	99%
	32	24	18	75%
A.I.D. Washington	$16,818,493	$48,208,387	$35,790,057	74%
	151	178	159	89%
Totals	$39,393,104	$106,714,017	$85,816,060	80%
	185	358	300	84%

[1] All dollar amounts represent the original obligation for the contract as recorded in CIMS at A.I.D./Washington and/or contract logs at overseas offices. Modifications to these contracts are not included.

[2] This information was obtained through the Contract Information Management System, the Office of Procurement's contract database and/or Mission contract logs. Mission staff at each of the offices reported discrepancies in the data concerning the number of contracts and classification of the contracts. Although this discrepancy has the potential to be significant, we did not review the accuracy of the system because of outstanding recommendations by GAO, OMB and the Presidential Commission on the Management of A.I.D. and because of ongoing efforts by A.I.D. management to correct the problem. Please see Appendix I of the report for more information on this subject.

[3] Nairobi had coded 5 contracts totaling $1,141,930 as being for advisory services in CIMS. However, Mission staff indicated that all 5 contracts were not for advisory services and the information had been incorrectly entered into CIMS. Our examination indicated that the contracts were actually for advisory services. They are included in the audit sample.

[4] Cairo had coded in CIMS 2 contracts totaling $609,317 as being for advisory services. However, Mission staff indicated that both contracts were not for advisory services and the information had been incorrectly entered into CIMS. The contracts are included in the audit sample.

[5] Eight other contracts totaling $16.1 million were originally classified in the CIMS or in the contract file as being for advisory and assistance services. The mission contract officer, however, stated that they had been incorrectly classified and were not for advisory services. The eight contracts were therefore included in the audit sample and represent the bulk of contracts determined by the audit to be for advisory and assistance services at the mission.

Noncompliance with Advisory and Assistance Services Justification and Approval Requirements

Noncompliance with Justification Requirements						
	A.I.D. Washington	USAID Honduras	USAID Philippines	USAID Egypt	REDSO/ ESA	Totals
Contracts Reviewed	**58**	**2**	**2**	**N/A**	**N/A**	**62**
Number without documentation for "Need and Utilization"	19	0	0	N/A	N/A	19
Number without documentation on a "Review of Prior Work"	21	0	0	N/A	N/A	21
Number without documentation on a lack of "In-House Capacity"	18	0	0	N/A	N/A	18

Noncompliance with Approval Requirements						
	A.I.D. Washington	USAID Honduras	USAID Philippines	USAID Egypt	REDSO/ ESA	Totals
Contracts Reviewed	**46**	**1**	**1**	**N/A**	**N/A**	**48**
Number without appropriate approval (1st-3rd quarter request)	14	0	0	N/A	N/A	14
Contracts Reviewed	**12**	**1**	**1**	**N/A**	**N/A**	**14**
Number without appropriate approval (4th quarter request)	3	0	0	N/A	N/A	3

N/A - Not Applicable: USAID Egypt and USAID REDSO/ESA reported that they did not consider any of their fiscal year 1992 contracts to be for advisory and assistance services.

Of the 62 contract justifications reviewed, 22 different justifications or 35% of the sample did not have at least one of the three requirements documented. 40 of the 62 contract justifications or 65% of the justifications were in compliance with the requirements that we reviewed.

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

MAR 5 1993

MEMORANDUM

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

FROM: AA/FA, John F. Owens

SUBJECT: Draft Audit of the Agency for International Development's Controls Over Advisory and Assistance Services

Thank you for the opportunity to provide comments on this draft audit report. One technical clarification first, the report refers to FA/PPE as the Office of Procurement Policy and Evaluation; the correct title is the Procurement Policy and Evaluation Staff.

While the audit says that FA/PPE did not take appropriate measures to ensure that contracting officers were aware of OMB's determination that the Advisory and Assistance (A&A) services requirements apply to AID-direct contracts which benefit a third party beneficiary, the fact is that the AIDAR was amended in November 1990 to delete the exception for contracts benefiting a host country. Last year's audit of A&A services which occurred more than a year after the OMB guidance was issued and FA/PPE had amended the AIDAR, did not identify this as a problem. We do not dispute, however, that many Contracting Officers apparently did not know of this change. To remedy this, I recently issued a Contract Information Bulletin (CIB) which clearly states the applicability of the A&A approval requirements to contracts which benefit a host country or other third parties. We request that the first recommendation be closed based on the issuance of the CIB, a copy of which is attached.

We disagree with Recommendation 1.4. It is not consonant with the overall philosophy of the certification evaluations, as stated in the annual memorandum from the Procurement Executive to the Administrator:

> "The philosophy of systems evaluation which we have developed has been to look at the reviewed organization from the perspective of identifying problem areas in operating practice--particularly problems which could result in protest by contractors or audit citation by GAO or IG--and to counsel the Mission or AID/W staff to avoid such occurrences. Thus, our emphasis has been on counseling, correction and/or prevention of deficiencies to improve the Agency's performance in direct contracting.

This mode of operation has been successful. Our experience shows that Missions have been open with the FA/PPE staff in discussing problems and asking questions on contracting issues. Links have been established so that, when questions arise, Mission staff call for advice and guidance rather than guess at contracting problem solutions. This is the mode of operation we seek, but it is also understood that if someone is deliberately operating outside regulation or statute, they are not likely to open up or to seek advice.

The certification and review process is not an audit of individual contract action or contract files, and should not be considered as a substitute for any of the functions performed by the Office of the Inspector General. However, it is an effective tool in decreasing the Agency's vulnerability in contracts, serving as a supplement to the Agency's internal control system. System deficiencies which can lead to abuse and poor procurement practices are identified and remedied. Often, training in specific fields or increased involvement by a more senior Contracting Officer is encouraged and arranged. Our approach is collegial rather than adversarial."

In implementing this, the Procurement Executive has never maintained a system of open or closed recommendations, regardless of the significance of the findings. If your office believes written action plans to address problems related to advisory and assistance services are necessary, you may wish to address this issue in Mission or AID/W audits individually.

Attachment: a/s

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

FEB 19 1993

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC

FROM: DAA/FA, Mr. John F. Owens, Procurement Executive

SUBJECT: Contracts for Advisory and Assistance (A&A) Services

CONTRACT INFORMATION BULLETIN 93-6

This CIB addresses two issues concerning contracts for A&A services.

First, recent audits have pointed out that not everyone is aware that the FAR and AIDAR procedures for A&A services are applicable to contracts for the benefit of the host country. The AIDAR provision which excepted contracts for the benefit of the host country from the A&A procedures was removed from the AIDAR as of November 1990 based on guidance received from OMB (later confirmed by a January 1991 memo to all executive agencies) that contracts for the benefit of third parties were covered by the A&A procedures. Please take note that the A&A procedures in FAR 37.2 and AIDAR 737.2 do apply to A.I.D.-direct contracts for the benefit of the host country.

Second, recognizing that this clarification of the applicability of the A&A procedures will make the current A&A Executive approval threshold specified in AIDAR 732.206(c) and 737.270(b) very burdensome, we are revising the threshold.

Effective upon receipt of this CIB the following approval requirements are established for contracts for A&A services in place of those established in the last sentence of AIDAR 737.206(c)(3) and in 737.270(b):

- Contracts for A&A services which benefit the host country and are funded under a project agreement must be approved by the A&A Executive when the estimated value is $15 million or more for the first year of the contract.

- Contracts for A&A services which are not funded under a project agreement, regardless of the beneficiary, must be approved by the A&A Executive when the estimated value is $1 million or more for the first year of the contract.

For your information, these approvals will be based on a review of the justification for A&A services required by AIDAR 737.206(c)(2).

The AIDAR will be amended as soon as possible to incorporate these changes.

The responsibilities in FAR 37.206 for written justification and approval by the requesting office will remain applicable to all A&A services, regardless of the beneficiary.