
CONTRACTING FOR ADVISORY AND ASSISTANCE SERVICES
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CONTRACTING FOR ADVISORY AND ASSISTANCE SERVICES
General

1. GENERAL

1.1 Purpose. This supplement establishes Bureau guidelines concerning the use and control of the related areas of contracting for advisory and assistance services obtained from outside individuals and organizations by Bureau contracting activities (see 19 BIAM Chapter 18 for basic policy). Previously called consulting services and management services and studies, the term had encompassed all contracts for which the end product was purely advice related to Government administrative and/or management systems. This instruction applies to the acquisition of cited studies/services throughout the Bureau, regardless of the dollar amount involved, and may require Departmental-level review and approval for such acquisition requests and contracts.

1.2 Authority.

A. The Interior Departmental Manual (365 DM 1) and the Interior Acquisition Regulations (Subpart 1437.2) provide the basic organization of advisory and assistance services contracts. Reference is also provided in 19 BIAM Supplement 17, Contract Acquisition Lead-time.

1.3 Applicability.

A. "Advisory and Assistance Services" includes those services acquired from non-governmental sources to support or improve agency policy development, decision-making, management, and administration or to support or improve the operation of management systems. These services include requirements not only for individual experts and consultants, but also: (1) studies, analyses, and evaluations, (2) management and professional support services, and (3) engineering and technical services. These services are normally provided by persons/organizations generally available within the Bureau. The form of compensation is irrelevant to the definition.

(1) Advisory and Assistance services can be acquired by:

(a) Procurement contract, under Federal Acquisition Regulation (FAR) Subpart 37.2 and Department of the Interior Acquisition Regulation (DIAR) Subpart 1437.2;

(b) Personnel appointment for consultant services as defined in the Federal Personnel Manual, Chapter 304; and

(c) Membership in Advisory Committees.

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(2) Advisory and Assistance Services may take the form of information, advice, opinion, alternatives, conclusions, recommendations, training, or direct assistance. The term includes:

- (a) Services of individual experts and consultants (independently or assembled into panels or committees).
- (b) Studies, analyses, and evaluations providing analytic assessments or insights.
- (c) Management and professional support services.
- (d) Engineering and technical services.

B. Such services are subject to this supplement if their purpose is to provide:

- (1) Information, opinions, advice or recommendations to:
 - (a) Enhance understanding of complex issues, or
 - (b) Improve the quality and timeliness of policy development or decision-making.
- (2) Advice, training, or assistance to ensure more efficient or effective operations of:
 - (a) Organizations or managerial, administrative, or related systems.
 - (b) Existing hardware platforms and associated software (including maintenance).
- (3) Advice of experts or citizens in developing or implementing Government programs.

C. Examples of the types of services which are "advisory and assistance services" as the term applies to the Bureau of Indian Affairs, are as follows:

- (1) Advice on or evaluation of agency administration and management such as:
 - (a) Organizational structures.

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- (b) Reorganization plans.
 - (c) Management methods and procedures.
 - (d) Records and file organization.
 - (e) Discriminatory labor practices.
 - (f) Internal policies, directives, orders, manuals, and procedures.
 - (g) Management information systems (unless considered ADP/T support services subject to FIRMR).
- (2) Advice on or evaluation of program management, plans, priorities or directions.
 - (3) Advice/development of acquisition or assistance agreement strategies.
 - (4) Legal analysis and interpretations of program statutes, regulations or enforcement activities (includes Expert Witness contracts; excludes routine legal services).
 - (5) Evaluation of technical or cost proposals, whether solicited or unsolicited acquisitions or assistance.
 - (6) Economic impact studies.
 - (7) Mission and program review or analysis.
 - (8) Training (excluding training in use of newly delivered hardware/software system, training to maintain skills necessary for normal operations; and training on any subject when obtained within DOI or from another Federal agency).

D. Examples of the types of services which are not "advisory and assistance services" and are excluded from A-120 are as follows:

- (1) Awards under the authority of P.L. 93-638 as amended by P.L. 100-472.
- (2) Architectural and engineering services, including construction management services.
- (3) Engineering studies related to existing or proposed systems.

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(4) ADP/Telecommunications controlled by 41 CFR Part 201, the Federal Information Resources Management Regulation (FIRMR).

(5) Technical services on hardware systems provided before system acceptance or obtained to increase design performance capabilities of new or existing systems.

(6) Technical representative services by the designer or producer of hardware items integral to development, production or operational support activities.

(7) Daily operation of facilities and their related functions.

(8) Services integral to the operational support of an existing system.

(9) Basic operation contracts for Government-owned, contractor operated facilities.

(10) Routine actuarial, auditing and accounting services (example: Independent audit of in-house performance cost estimate under an A-76 cost comparison study.)

E. Advisory and assistance services will not be used in performing work of a policy, decision-making or managerial nature which is the direct responsibility of Bureau officials.

(1) Advisory and assistance services will normally be obtained only on an intermittent or temporary basis. Repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

(2) Former Government employees, per se, will not be given preference in advisory and assistance services arrangements.

(3) Advisory and assistance services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

(4) Advisory and assistance services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

(5) Advisory and assistance services will not be used to obtain professional or technical advice which is readily available within the Bureau or other Interior Bureau or Federal agency.

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(6) Grant and cooperative agreements will not be used as legal instruments for advisory and assistance service arrangements.

F. The contracting officer shall be responsible for determining whether and Acquisition Request (AR), regardless of dollar value, is for advisory and assistance services. The reviewing contracting officer shall also ensure that the applicable provisions of 19 BIAM Supplement 18 have been adhered to and that required documentation is complete and included in the AR and official contract file. (See 365 DM 1.3D).

1.4 Discussion. This directive shall be implemented by the Bureau to ensure higher executive level review and approval of acquisition requests and contracts for the cited studies/services. Studies/services providing contractor advisory and assistance services should not be confused with Commercial or Industrial (C/I) Activities Program services described in OMB Circular A-76. (See 403 DM 1-11, and 19 BIAM Supplement 15).

A. This supplement applies to the acquisition by purchase order or contract of the cited studies/services of a professional nature, involving the performance of services and studies, preparation of reports or internal documentation, or development of integrated support plans.

B. This supplement does not apply to the acquisition of services, such as custodial services, or services directly related to manufacture, repair, or maintenance of hardware.

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2. PROCEDURES

2.1 General. Before initiating any Acquisition Request (AR), (new purchase order, contract, or modification) for the cited studies/services, the initiator shall analyze the requirement and available Bureau resources and determine that the requirement cannot be met with in-house resources; and the requirement cannot be met by the use of other Bureau or Departmental resources, including field activities. Support services to be provided to Bureau Central Office elements shall not be passed to Bureau field activities solely for acquisition action; and, sufficient control mechanisms will be applied in contract performance to ensure that essential management control of the activity will be retained by the Bureau.

2.2 Application. Requirements for the cited studies/services should be identified, documented and approved as early in the acquisition process as feasible, preferably in conjunction with the program manager's budget development. Not all such cited studies/services requirements can be forecast well in advance and such requirements may develop at any time during the acquisition process. In any event, approval of contracting-out to meet such a requirement shall be requested as soon as the requirement is identified.

A. The Requirements Determination shall be documented utilizing the form BIA 1915, Determination to Contract for Advisory and Assistance Services, (Illustration 2) to be included as a part of the Acquisition Request (AR) where such cited studies/services are a part or purpose of the purchase order or contract. Contractor-support shall be utilized in those instances where the task to be performed involves the application of cited studies/services skills not possessed in-house and which would not be economical or feasible to develop.

B. Acquisition Requests (AR's) for the cited services/studies require the following approval levels:

(1) Less than \$25 thousand are to be approved by the Chief of the Contract Office, except during the fourth quarter when approval is by the Deputy Commissioner of Indian Affairs.

(2) In excess of \$25 thousand and less than \$100 thousand are to be approved by the Deputy Commissioner of Indian Affairs, except during the fourth quarter when approval is by the Chief, Division of Property Management and Acquisition.

(3) In excess of \$100 thousand and less than \$1 Million are to be approved by the Chief, Division of Property Management and Acquisition, except during the fourth quarter when approval is by the Assistant Secretary - Policy, Management and Budget.

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(4) In excess of \$1 Million are to be approved by the Assistant Secretary - Policy, Management and Budget, except during the fourth quarter when approval is by the Under Secretary.

All materials required by 365 DM Part 1.6, 1.7, 1.9 and this supplement shall be prepared and forwarded by the servicing contracting officer and line official to the Division of Contracting and Grants Administration (central office) for initial review when signature is above the level of the chief of the contract office.

2.3 Responsibilities.

A. The Deputy Commissioner of Indian Affairs is responsible for coordinating the control procedures of the program, budget, contracting, and personnel offices.

B. The program manager is responsible for:

(1) Planning and Identification. The program manager is responsible for identification of requirements for Advisory and Assistance Services as early as possible. Two such advance planning opportunities are as follow.

(a) Budget cycle. Requirements for Advisory and Assistance Services that are anticipated to exceed \$25,000 are to be planned 2 years in advance of requirement (per 365 DM 1.2E).

(b) Advance Acquisition Plans. Requirements for Advisory and Assistance Services, regardless of amount, must be submitted to the contracting officer prior to the beginning of the Fiscal Year.

(2) Preaward Support. The program manager is responsible for --

(a) Developing a detailed statement of work and the Determination to Contract for Advisory and Assistance Services in accordance with 365 DM 1.6A(2). The requirements for the development of the statement of work and establishment of payment provisions and prior approval by the contracting officer are applicable even though the Bureau may be entering into an Interagency Agreement to obtain the Advisory and Assistance Services (see 365 DM 1.3B).

(b) Nominating a contracting officer's representative (COR) with sufficient knowledge and skills to competently perform the technical contract administration duties.

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(3) Postaward Support. Upon completion of the contract, the program manager is responsible for preparing the Notification of Completion per 365 DM 1.8 and submitting it to the contracting officer within 30 days after completion.

C. The contracting officer's representative is responsible for:

(1) Contract Administration. The appointed COR is responsible for performing (in a proper manner) those technical contract administration duties identified in 365 DM 1.6C as delegated to him/her by the Contracting Officer. The COR must have an intimate knowledge of the contract requirements and all materials required by 365 DM Part 1.6, 1.7, 1.9 and this supplement and shall have the technical expertise necessary to assess the contractor's performance and recommend acceptance or rejection of the deliverables.

D. The contracting officer is responsible for:

(1) Planning and Technical Assistance and Advice. The contracting officer is the chief contact for the program manager to seek a determination as to whether a proposed requirement falls within the definition of Advisory and Assistance Services. The contracting officer is responsible for providing program managers with assistance and advice regarding matters such as the need for an Advance Acquisition Plan, the scope and detail necessary in the statement of work, development or evaluation criteria, etc.

(2) Preaward Support. The contracting officer has primary responsibility for reviewing the Determinations to Contract for Advisory and Assistance Services for conformance to 365 DM, concurring with valid, properly documented determinations and forwarding the determinations through the area office senior contract specialist to the Division of Contracting and Grants Administration. The contracting officer is responsible for rejecting improper and/or deficient determinations. The contracting officer is also responsible for reviewing and approving statements of work and payment provisions contained in Interagency Agreements even though the Advisory and Assistance Services are obtained through another government agency.

(3) Contract Award. The contracting officer is responsible for awarding a contract in accordance with the FAR, other applicable regulations, and within their warrant authority. The contracting officer is responsible for ensuring that Advisory and Assistance Services contracts contain provisions that allow the Government to adequately monitor and administer the contract.

(4) Contract Administration and Reporting. The contracting officer is responsible for complying with reporting and verification requirements as stated in this supplement. The contracting officer is responsible for insuring that CAAS actions are

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correctly coded as Advisory and Assistance Services when awards are reported to the Interior Procurement Data System (IPDS). For actions over \$25,000, this information is Block 26 of the DI-1940, Individual Contract Action Report (ICAR). Actions are coded as Advisory and Assistance Services if the contracting officer has determined that the OMB Circular A-120 applies, whether or not the action is exempt from the approval process. The contracting officer is responsible for the form's accuracy and forwarding two copies of the signed form and Request for Approval to the Division of Contracting and Grants Administration within 5 days after contract/modification award. One copy of the signed form must be retained in the official contract file.

(5) Oversight. Contracting Officers reviewing contract operations are responsible for performing detailed reviews (e.g. Acquisition Management Reviews) of all contracts for Advisory and Assistance Services and reporting deficiencies accordingly.

E. The Division of Contracting and Grants Administration is the management control point for Advisory and Assistance Services, and has the following responsibilities:

(1) Planning. The Division of Contracting and Grants Administration is responsible for verifying the projected list of Advisory and Assistance Services projects compiled by the Budget Officer prior to the budget data being sent to the Department.

(2) Preaward Support. The Division of Contracting and Grants Administration is responsible for reviewing and concurring (if appropriate) with Determinations to Contract for Advisory and Assistance Services. The division is responsible for forwarding subject requests for higher level review and approval in accordance with the approval levels identified in 365 DM 1, Appendix 1.

(3) Reports, Verifications and Reconciliations. The Division of Contracting and Grants Administration is responsible for forwarding copies of determinations, signed at the Bureau level, along with a signed hard copy of the ICAR as reported to the Interior Procurement Data system, to the Department within 10 days of contract/modification award (per 365 DM 1.2E). The division is also responsible for forwarding written reports to the Department; receiving and coordinating responses to the Department based on reconciliations performed by the Budget office and verifications made by the area contracting offices.

(4) Oversight. The Division of Contracting and Grants Administration is responsible for reviewing reports (e.g., Acquisition Management Review) relative to Advisory and Assistance Services contracts, identifying deficiencies, and implementing corrective action(s) as necessary.

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E. The budget officer is responsible for:

(1) Planning. The budget officer is responsible for requesting and compiling budget projections which include a special line item for Advisory and Assistance Services; coordinating these projected requirements through the Division of Contracting and Grants Administration.

(2) Reports, Verifications and Reconciliations. The budget officer is responsible for reconciling contract awards for Advisory and Assistance Services with budget projections and reporting such reconciliation to the Division of Contracting and Grants Administration within the prescribed deadlines.

F. The Bureau of Indian Affairs Personnel Officer is responsible for providing any necessary instructions for obtaining advisory and assistance services by personnel appointment in accordance with 370 DM 304 and for compliance with required personnel data file reports.

U.S. Department of the Interior
Bureau of Indian Affairs

CONCEPTUAL STRUCTURE FOR CONTROLLING AND BALANCING
CONTRACTOR SUPPORT SERVICES WHEN CONTRACTING FOR
ADVISORY AND ASSISTANCE SERVICES

The following model meets the intent and requirement of Supplement 18 for control systems which ensure:

- (1) Appropriate requirements reviews for the cited services.
- (2) In-house/contractor balance and control of professional support resources.

Requirements for the cited services, regardless of dollar value, shall be reviewed generally as outlined below.

A. Requirements Determination. The decision to acquire the cited services through the services of a contractor is reached through a series of considerations. First, the requiring program manager determines that the work will not be done within the office. In determining means for accomplishing the required tasks, the program manager must balance current and projected workload against resources available from within the Bureau and the Department, and from potential contractors.

B. Determination Review. A program manager's determination to accomplish work for the cited services is initially reviewed by a higher level authority which includes the examination of:

- (1) Justification for use of contractor-provided advisory and assistance services as provided in Illustration 2, of this supplement as part of the Acquisition Request (AR).
- (2) Statement of Work (SOW) and AR to ensure that it is clear, explicit, and specific as to deliverables.
- (3) The potential for organizational or personal conflict of interest by the proposed contract.

C. Approvals. Bureau initiators of Determinations to Contract for Advisory and Assistance Services shall obtain approval/disapproval in accordance with item D. (Schematic Summary).

D. Schematic Summary. The following flow chart summarizes the procedural model for controlling and balancing contractor support services for advisory and assistance services in

support of Bureau programs and other mission elements.

SCHEMATIC SUMMARY
 APPROVAL LEVELS FOR ADVISORY AND ASSISTANCE SERVICES
 QUARTERS 1, 2, AND 3 OF FY

Acquisition Requests and Purchase Orders	Concurrence	Approving Official
UNDER \$25,000: Program Manager	N/A	Chief of Contract Office
OVER \$25,000 UNDER \$100,000: Program Manager Chief of Contract Office	Chief, Division of Contracting and Grants Administration	Deputy Commissioner of Indian Affairs
OVER \$100,000 UNDER \$1M: Program Manager Chief of Contract Office	Deputy Commissioner of Indian Affairs	Chief, Division of Property Management and Acquisition
OVER \$1 MILLION: Program Manager Chief of Contract Office	Chief, Division of Property Management and Acquisition	Assistant Secretary - Policy, Management and Budget

APPROVAL LEVELS FOR ADVISORY AND ASSISTANCE SERVICES
 QUARTER 4 OF FY

Acquisition Requests and Purchase Orders	Concurrence	Approving Official
UNDER \$25,000: Program Manager Chief of Contract Office	Chief, Division of Contracting & Grants Administration	Deputy Commissioner of Indian Affairs
OVER \$25,000 UNDER \$100,000: Program Manager Chief of Contract Office	Deputy Commissioner of Indian Affairs	Chief, Division of Property Management and Acquisition
OVER \$100,000 UNDER \$1M: Program Manager Chief of Contract Office	Chief, Division of Property Management and Acquisition	Assistant Secretary - Policy, Management and Budget
OVER \$1 MILLION: Program Manager Chief of Contract Office	Assistant Secretary - Policy, Management and Budget	UNDER SECRETARY

CONTRACTING FOR ADVISORY AND ASSISTANCE SERVICES
General

1. GENERAL

1.1 Purpose. This supplement establishes Bureau guidelines concerning the use and control of the related areas of contracting for advisory and assistance services obtained from outside individuals and organizations by Bureau contracting activities (see 19 BIAM Chapter 18 for basic policy). Previously called consulting services and management services and studies, the term had encompassed all contracts for which the end product was purely advice related to Government administrative and/or management systems. This instruction applies to the acquisition of cited studies/services throughout the Bureau, regardless of the dollar amount involved, and may require Departmental-level review and approval for such acquisition requests and contracts.

1.2 Authority.

A. The Interior Departmental Manual (365 DM 1) and the Interior Acquisition Regulations (Subpart 1437.2) provide the basic organization of advisory and assistance services contracts. Reference is also provided in 19 BIAM Supplement 17, Contract Acquisition Lead-time.

1.3 Applicability.

A. "Advisory and Assistance Services" includes those services acquired from non-governmental sources to support or improve agency policy development, decision-making, management, and administration or to support or improve the operation of management systems. These services include requirements not only for individual experts and consultants, but also: (1) studies, analyses, and evaluations, (2) management and professional support services, and (3) engineering and technical services. These services are normally provided by persons/organizations generally available within the Bureau. The form of compensation is irrelevant to the definition.

(1) Advisory and Assistance services can be acquired by:

(a) Procurement contract, under Federal Acquisition Regulation (FAR) Subpart 37.2 and Department of the Interior Acquisition Regulation (DIAR) Subpart 1437.2;

(b) Personnel appointment for consultant services as defined in the Federal Personnel Manual, Chapter 304; and

(c) Membership in Advisory Committees.

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(2) Advisory and Assistance Services may take the form of information, advice, opinion, alternatives, conclusions, recommendations, training, or direct assistance. The term includes:

- (a) Services of individual experts and consultants (independently or assembled into panels or committees).
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B. Such services are subject to this supplement if their purpose is to provide:

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- (b) Reorganization plans.
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D. Examples of the types of services which are not "advisory and assistance services" and are excluded from A-120 are as follows:

- (1) Awards under the authority of P.L. 93-638 as amended by P.L. 100-472.
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(4) ADP/Telecommunications controlled by 41 CFR Part 201, the Federal Information Resources Management Regulation (FIRMR).

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(2) Former Government employees, per se, will not be given preference in advisory and assistance services arrangements.

(3) Advisory and assistance services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

(4) Advisory and assistance services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

(5) Advisory and assistance services will not be used to obtain professional or technical advice which is readily available within the Bureau or other Interior Bureau or Federal agency.

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(6) Grant and cooperative agreements will not be used as legal instruments for advisory and assistance service arrangements.

F. The contracting officer shall be responsible for determining whether and Acquisition Request (AR), regardless of dollar value, is for advisory and assistance services. The reviewing contracting officer shall also ensure that the applicable provisions of 19 BIAM Supplement 18 have been adhered to and that required documentation is complete and included in the AR and official contract file. (See 365 DM 1.3D).

1.4 Discussion. This directive shall be implemented by the Bureau to ensure higher executive level review and approval of acquisition requests and contracts for the cited studies/services. Studies/services providing contractor advisory and assistance services should not be confused with Commercial or Industrial (C/I) Activities Program services described in OMB Circular A-76. (See 403 DM 1-11, and 19 BIAM Supplement 15).

A. This supplement applies to the acquisition by purchase order or contract of the cited studies/services of a professional nature, involving the performance of services and studies, preparation of reports or internal documentation, or development of integrated support plans.

B. This supplement does not apply to the acquisition of services, such as custodial services, or services directly related to manufacture, repair, or maintenance of hardware.

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Procedures

2. PROCEDURES

2.1 General. Before initiating any Acquisition Request (AR), (new purchase order, contract, or modification) for the cited studies/services, the initiator shall analyze the requirement and available Bureau resources and determine that the requirement cannot be met with in-house resources; and the requirement cannot be met by the use of other Bureau or Departmental resources, including field activities. Support services to be provided to Bureau Central Office elements shall not be passed to Bureau field activities solely for acquisition action; and, sufficient control mechanisms will be applied in contract performance to ensure that essential management control of the activity will be retained by the Bureau.

2.2 Application. Requirements for the cited studies/services should be identified, documented and approved as early in the acquisition process as feasible, preferably in conjunction with the program manager's budget development. Not all such cited studies/services requirements can be forecast well in advance and such requirements may develop at any time during the acquisition process. In any event, approval of contracting-out to meet such a requirement shall be requested as soon as the requirement is identified.

A. The Requirements Determination shall be documented utilizing the form BIA 1915, Determination to Contract for Advisory and Assistance Services, (Illustration 2) to be included as a part of the Acquisition Request (AR) where such cited studies/services are a part or purpose of the purchase order or contract. Contractor-support shall be utilized in those instances where the task to be performed involves the application of cited studies/services skills not possessed in-house and which would not be economical or feasible to develop.

B. Acquisition Requests (AR's) for the cited services/studies require the following approval levels:

(1) Less than \$25 thousand are to be approved by the Chief of the Contract Office, except during the fourth quarter when approval is by the Deputy Commissioner of Indian Affairs.

(2) In excess of \$25 thousand and less than \$100 thousand are to be approved by the Deputy Commissioner of Indian Affairs, except during the fourth quarter when approval is by the Chief, Division of Property Management and Acquisition.

(3) In excess of \$100 thousand and less than \$1 Million are to be approved by the Chief, Division of Property Management and Acquisition, except during the fourth quarter when approval is by the Assistant Secretary - Policy, Management and Budget.

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(4) In excess of \$1 Million are to be approved by the Assistant Secretary - Policy, Management and Budget, except during the fourth quarter when approval is by the Under Secretary.

All materials required by 365 DM Part 1.6, 1.7, 1.9 and this supplement shall be prepared and forwarded by the servicing contracting officer and line official to the Division of Contracting and Grants Administration (central office) for initial review when signature is above the level of the chief of the contract office.

2.3 Responsibilities.

A. The Deputy Commissioner of Indian Affairs is responsible for coordinating the control procedures of the program, budget, contracting, and personnel offices.

B. The program manager is responsible for:

(1) Planning and Identification. The program manager is responsible for identification of requirements for Advisory and Assistance Services as early as possible. Two such advance planning opportunities are as follow.

(a) Budget cycle. Requirements for Advisory and Assistance Services that are anticipated to exceed \$25,000 are to be planned 2 years in advance of requirement (per 365 DM 1.2E).

(b) Advance Acquisition Plans. Requirements for Advisory and Assistance Services, regardless of amount, must be submitted to the contracting officer prior to the beginning of the Fiscal Year.

(2) Preaward Support. The program manager is responsible for --

(a) Developing a detailed statement of work and the Determination to Contract for Advisory and Assistance Services in accordance with 365 DM 1.6A(2). The requirements for the development of the statement of work and establishment of payment provisions and prior approval by the contracting officer are applicable even though the Bureau may be entering into an Interagency Agreement to obtain the Advisory and Assistance Services (see 365 DM 1.3B).

(b) Nominating a contracting officer's representative (COR) with sufficient knowledge and skills to competently perform the technical contract administration duties.

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(3) Postaward Support. Upon completion of the contract, the program manager is responsible for preparing the Notification of Completion per 365 DM 1.8 and submitting it to the contracting officer within 30 days after completion.

C. The contracting officer's representative is responsible for:

(1) Contract Administration. The appointed COR is responsible for performing (in a proper manner) those technical contract administration duties identified in 365 DM 1.6C as delegated to him/her by the Contracting Officer. The COR must have an intimate knowledge of the contract requirements and all materials required by 365 DM Part 1.6, 1.7, 1.9 and this supplement and shall have the technical expertise necessary to assess the contractor's performance and recommend acceptance or rejection of the deliverables.

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(1) Planning and Technical Assistance and Advice. The contracting officer is the chief contact for the program manager to seek a determination as to whether a proposed requirement falls within the definition of Advisory and Assistance Services. The contracting officer is responsible for providing program managers with assistance and advice regarding matters such as the need for an Advance Acquisition Plan, the scope and detail necessary in the statement of work, development or evaluation criteria, etc.

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(3) Contract Award. The contracting officer is responsible for awarding a contract in accordance with the FAR, other applicable regulations, and within their warrant authority. The contracting officer is responsible for ensuring that Advisory and Assistance Services contracts contain provisions that allow the Government to adequately monitor and administer the contract.

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correctly coded as Advisory and Assistance Services when awards are reported to the Interior Procurement Data System (IPDS). For actions over \$25,000, this information is Block 26 of the DI-1940, Individual Contract Action Report (ICAR). Actions are coded as Advisory and Assistance Services if the contracting officer has determined that the OMB Circular A-120 applies, whether or not the action is exempt from the approval process. The contracting officer is responsible for the form's accuracy and forwarding two copies of the signed form and Request for Approval to the Division of Contracting and Grants Administration within 5 days after contract/modification award. One copy of the signed form must be retained in the official contract file.

(5) Oversight. Contracting Officers reviewing contract operations are responsible for performing detailed reviews (e.g. Acquisition Management Reviews) of all contracts for Advisory and Assistance Services and reporting deficiencies accordingly.

E. The Division of Contracting and Grants Administration is the management control point for Advisory and Assistance Services, and has the following responsibilities:

(1) Planning. The Division of Contracting and Grants Administration is responsible for verifying the projected list of Advisory and Assistance Services projects compiled by the Budget Officer prior to the budget data being sent to the Department.

(2) Preaward Support. The Division of Contracting and Grants Administration is responsible for reviewing and concurring (if appropriate) with Determinations to Contract for Advisory and Assistance Services. The division is responsible for forwarding subject requests for higher level review and approval in accordance with the approval levels identified in 365 DM 1, Appendix 1.

(3) Reports, Verifications and Reconciliations. The Division of Contracting and Grants Administration is responsible for forwarding copies of determinations, signed at the Bureau level, along with a signed hard copy of the ICAR as reported to the Interior Procurement Data system, to the Department within 10 days of contract/modification award (per 365 DM 1.2E). The division is also responsible for forwarding written reports to the Department; receiving and coordinating responses to the Department based on reconciliations performed by the Budget office and verifications made by the area contracting offices.

(4) Oversight. The Division of Contracting and Grants Administration is responsible for reviewing reports (e.g., Acquisition Management Review) relative to Advisory and Assistance Services contracts, identifying deficiencies, and implementing corrective action(s) as necessary.

CONTRACTING FOR ADVISORY AND ASSISTANCE SERVICES
Procedures

E. The budget officer is responsible for:

(1) Planning. The budget officer is responsible for requesting and compiling budget projections which include a special line item for Advisory and Assistance Services; coordinating these projected requirements through the Division of Contracting and Grants Administration.

(2) Reports, Verifications and Reconciliations. The budget officer is responsible for reconciling contract awards for Advisory and Assistance Services with budget projections and reporting such reconciliation to the Division of Contracting and Grants Administration within the prescribed deadlines.

F. The Bureau of Indian Affairs Personnel Officer is responsible for providing any necessary instructions for obtaining advisory and assistance services by personnel appointment in accordance with 370 DM 304 and for compliance with required personnel data file reports.

U.S. Department of the Interior
Bureau of Indian Affairs

CONCEPTUAL STRUCTURE FOR CONTROLLING AND BALANCING
CONTRACTOR SUPPORT SERVICES WHEN CONTRACTING FOR
ADVISORY AND ASSISTANCE SERVICES

The following model meets the intent and requirement of Supplement 18 for control systems which ensure:

- (1) Appropriate requirements reviews for the cited services.
- (2) In-house/contractor balance and control of professional support resources.

Requirements for the cited services, regardless of dollar value, shall be reviewed generally as outlined below.

A. Requirements Determination. The decision to acquire the cited services through the services of a contractor is reached through a series of considerations. First, the requiring program manager determines that the work will not be done within the office. In determining means for accomplishing the required tasks, the program manager must balance current and projected workload against resources available from within the Bureau and the Department, and from potential contractors.

B. Determination Review. A program manager's determination to accomplish work for the cited services is initially reviewed by a higher level authority which includes the examination of:

- (1) Justification for use of contractor-provided advisory and assistance services as provided in Illustration 2, of this supplement as part of the Acquisition Request (AR).
- (2) Statement of Work (SOW) and AR to ensure that it is clear, explicit, and specific as to deliverables.
- (3) The potential for organizational or personal conflict of interest by the proposed contract.

C. Approvals. Bureau initiators of Determinations to Contract for Advisory and Assistance Services shall obtain approval/disapproval in accordance with item D. (Schematic Summary).

D. Schematic Summary. The following flow chart summarizes the procedural model for controlling and balancing contractor support services for advisory and assistance services in

support of Bureau programs and other mission elements.

SCHEMATIC SUMMARY
 APPROVAL LEVELS FOR ADVISORY AND ASSISTANCE SERVICES
 QUARTERS 1, 2, AND 3 OF FY

Acquisition Requests and Purchase Orders	Concurrence	Approving Official
UNDER \$25,000: Program Manager	N/A	Chief of Contract Office
OVER \$25,000 UNDER \$100,000: Program Manager Chief of Contract Office	Chief, Division of Contracting and Grants Administration	Deputy Commissioner of Indian Affairs
OVER \$100,000 UNDER \$1M: Program Manager Chief of Contract Office	Deputy Commissioner of Indian Affairs	Chief, Division of Property Management and Acquisition
OVER \$1 MILLION: Program Manager Chief of Contract Office	Chief, Division of Property Management and Acquisition	Assistant Secretary - Policy, Management and Budget

APPROVAL LEVELS FOR ADVISORY AND ASSISTANCE SERVICES
 QUARTER 4 OF FY

Acquisition Requests and Purchase Orders	Concurrence	Approving Official
UNDER \$25,000: Program Manager Chief of Contract Office	Chief, Division of Contracting & Grants Administration	Deputy Commissioner of Indian Affairs
OVER \$25,000 UNDER \$100,000: Program Manager Chief of Contract Office	Deputy Commissioner of Indian Affairs	Chief, Division of Property Management and Acquisition
OVER \$100,000 UNDER \$1M: Program Manager Chief of Contract Office	Chief, Division of Property Management and Acquisition	Assistant Secretary - Policy, Management and Budget
OVER \$1 MILLION: Program Manager Chief of Contract Office	Assistant Secretary - Policy, Management and Budget	UNDER SECRETARY

U.S. Department of the Interior
Bureau of Indian Affairs

DETERMINATION TO
CONTRACT FOR ADVISORY AND ASSISTANCE SERVICES

Part I (to be completed by requisitioning office)

Instructions. Before completing and submitting this material, the initiator and Contracting Officer should review 365 DM Parts 1.6, 1.7, and 1.9 and this Supplement to make sure that all substantive and procedural requirements have been met.

This Determination is to be completed in this format by the program initiator and used as part of the Acquisition Request (AR) when advisory and assistance services are a part or purpose of the Bureau purchase order or contract. This information will be provided with the package for submission to the Acquisition/Assistance Agreement Review Committee/Contracting Officer, the line official, then to the Division of Contracting and Grants Administration (Central Office) for preliminary review for transmittal to the Deputy Commissioner of Indian Affairs, Office of the Commissioner of Indian Affairs and the Assistant Secretary - Policy, Budget and Administration.

-
1. Requesting Office: *(Identify the organizational level that initiated the requirement/requisition.)*
 2. Technical Representative: Name and telephone number.
 3. Contracting Officer: Name and telephone number.
 4. Project Title:
 5. Estimated total cost:
 6. Contract Performance Period: *(Enter planned start and end dates. Must not be more than 5 years).*
 7. Brief description of required services:

Describe tasks/reports to be obtained, including estimated person-years of effort.

8. Justification of the need to provide cited services and the consequences to Bureau mission and goals if the services are not provided or received. Include program/mission/cost/legal impacts to the Bureau.

9. Use of in-house resources.

A. Why can't in-house resources be used? If it is necessary to contract because of insufficient numbers of in-house personnel or a lack of in-house expertise, what additional resource (skills/numbers) would be required to meet this or similar future requirements with in-house resources?

B. What would be the effect of reprogramming or reprioritizing current or projected workload in order to meet this requirement with in-house resources?

10. Retaining essential management control of the service:

A. To what extent will the contractor be able to influence the Bureau's decision-making process?

B. If the contractor has the only expertise, how will the contractor-generated data/information be evaluated by the Bureau?

C. To what extent will the contractor act for or represent the Bureau in dealings with other Federal or State offices, with other contractors, or with judicial agencies?

D. To what extent does this acquisition effort constitute contracting of the Bureau's database system?

E. To what extent will the contractor "create" the contract deliverables, as opposed to reworking, revising, reviewing, editing, or reformatting data developed and provided under prior contract or by in-house personnel?

11. Address each criterion listed below. Identify any criteria that the proposed acquisition does not meet and the reason(s) why. (A blanket statement that each criterion has been considered is not acceptable).

A. The contractor is not to be used to bypass or undermine personnel ceilings, pay limitations, competitive employment procedures, or used for accomplishing continuing management responsibilities for which funds and personnel have been provided.

B. Services will not be used in performing work of a policy/decision-making nature which is the direct responsibility of Bureau officials.

C. The proposed acquisition, product, or service stipulated by the contract does not duplicate any previously awarded or performed work or service.

D. Contractor services will be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be made except under extraordinary circumstances that should be described in this request for approval to contract.

E. Required expertise does not exist within the Bureau and cannot be made available by other governmental units within or outside the Department to accomplish the work and meet the established schedule.

F. Former Government employees will not be given preference in consulting service arrangements or for management studies and services.

G. Advisory and Assistance Services shall not be used under any circumstances to specifically aid in influencing or enacting legislation.

H. Grant and cooperative agreements will not be used as legal instruments for advisory and assistance services.

I. Advisory and Assistance services are essential to the Bureau mission in order to obtain: Advice regarding developments in industry, university or foundation research; outside points of view to avoid too limited judgement on critical issues; the opinion of noted experts whose national or international prestige can contribute to the success of important projects; or, international advisory participation in developing or implementing Government programs that, by their nature or by statutory provisions call for such participation.

12. Advance Planning. This procurement was included in the annual budget estimates for CAAS and the Advance Procurement Plan for 199X.

If requirement was not planned, explain why the need was not foreseen in time for inclusion in the budget and/or APP planning process.

13. Attach a copy of the actual Statement of Work (developed according to the protocol in 19 BIAM Supp. 3) to be used in the acquisition; the performance schedule; and the deliverable item(s). Include the following items:

- A. Estimated person-years of effort and estimated total cost of acquisition.
- B. Evaluation criteria to be used to select contractor.
- C. Clearly state the objective(s) of the acquisition.

- The proposed advisory and assistance service will be acquired through full and open competition. OR
- The proposed noncompetitive acquisition complies with the Competition in Contracting Act of 1984. Justification for Other than Full and Open Competition is attached.

B. Former Employee Preference

Offerors will be required to identify any proposed former DOI employees during the solicitation process. Any proposed award involving a former employee separated less than 2 years will be reviewed to insure that no unfair competitive advantage exists through use of inside information or preferential treatment.

C. Organizational Conflict of Interest

The solicitation and resulting contract will require offerors/contractor personnel to disclose, as well as avoid, any conflict of interest. FAR provision 52.209-8 will be included in the solicitation as required by FAR 9.507(c).

D. Reporting (*Omit if action will not exceed the \$25,000 individual action reporting threshold*)

This action will be reported on DI form 1940, Individual Contract Action Report, Item 29 as code X. (*Select applicable choice: A-Individuals, B-Studies, C-Management/Professional Services, D-Engineering and technical*).

E. Contracting Officer Concurrence

Name and Warrant Number

Date

PART III -- APPROVALS

Determine appropriate approval level from Illustration 1, Schematic Summary and omit all other approval signatures. If DOI Approval is required, the approval must be forwarded through the Deputy Commissioner of Indian Affairs for concurrence. This line should be omitted if approval will be signed by the Chief of the Contracting Office.

Concur:

Deputy Commissioner of Indian Affairs Date

Approved:

(Enter required approving official title) Date

Follow-up. The approving Central Office (Bureau) or Departmental line official should return the complete package to BIA Division of Contracting and Grants Administration (Central Office) for processing and transmittal to the initiating Bureau activity.



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

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Illustration 3
Page 1 of 8 pages

January 4, 1988

Circular No. A-120

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Guidelines for the Use of Advisory and Assistance Services

1. Purpose. This circular establishes policy, assigns responsibilities, and sets guidelines to be followed by executive branch agencies in determining and controlling the appropriate use of advisory and assistance services obtained from individuals and organizations. This circular supersedes OMB Circular No. A-120 "Guidelines for the Use of Consulting Services," dated April 14, 1980.

2. Background. OMB Bulletin No. 78-11, issued May 5, 1978, first required agencies to apply extra controls to the procurement of consultant services. Circular A-120, dated April 14, 1980, provided permanent guidance in lieu of the interim guidance provided by the Bulletin. A Model Control System for consulting services was issued on January 15, 1982, to provide further guidance, which was non-mandatory.

In 1984, the Cabinet Council on Management and Administration (CCMA) completed a study of consulting services to estimate expenditures, review definitions and existing controls, and propose reforms. The study resulted from continuing reports, by GAO and other agencies, of problems in the way the Government manages and uses consulting services.

This revision of Circular A-120 is being issued (1) to expand the coverage of the circular; (2) to mandate controls for the management and reporting of advisory and assistance services; and (3) to clarify the relationship between Circular A-120 and OMB Circular No. A-76 (Revised) "Performance of Commercial Activities," issued August 4, 1983.

3. Relationship to OMB Circular A-76. Activities that are reviewed in accordance with the A-76 process are exempt from the provisions of this circular except that when the functions performed by the contractor meet the definition of advisory and assistance services set forth in this circular, the contracting action must be reported in accordance with Sections 8.A. and 9.A. below. When A-76 contracts are renewed, they are also exempt from the provisions of this circular.

4. Coverage. The provisions of this circular apply to advisory and assistance services obtained by the following arrangements:

- A. Personnel appointment;
- B. Procurement contract; and
- C. Advisory committee membership.

5. Definition. Advisory and Assistance Services are those services acquired from non-governmental sources by contract or by personnel appointment to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance. Advisory and assistance services include consultant services provided by individuals, as defined in the Federal Personnel Manual, Chapter 304.

A. Advisory and assistance services include activities having any of the following characteristics:

(1) Individual Experts and Consultants. Individual experts and consultants are persons possessing special, current knowledge or skill which may be combined with extensive operational experience. This enables them to provide information, opinions, advice, or recommendations to enhance understanding of complex issues or to improve the quality and timeliness of policy development or decision-making. These named individuals may either work independently or be assembled into panels, commissions, or committees.

(2) Studies, Analyses, and Evaluations. Studies, analyses, and evaluations are organized, analytic assessments needed to provide the insights necessary for understanding complex issues or improving policy development or decision-making. These analytic efforts result in formal, structured documents containing data or leading to conclusions and/or recommendations. This summary description is operationally defined by the following criteria:

a. Objective: to enhance understanding of complex issues or to improve the quality and timeliness of agency policy development or decision-making by providing new insights into, understanding of, alternative solutions to, or recommendations on agency policy and program issues, through the application of fact finding, analysis, and evaluation.

- 3 -

b. Areas of application: all subjects, issues, or problems involving policy development or decision-making in the agency. These may involve concepts, organizations, programs and other systems, and the application of such systems.

c. Outputs: outputs are formal, structured documents containing or leading to conclusions and/or recommendations. Data bases, models, methodologies, and related software created in support of a study, analysis, or evaluation are to be considered part of the overall study effort.

d. Exclusions and exemptions: a complete list of exclusions and exemptions from the provisions of this circular is attached.

(3) Management and Professional Support Services. Management and professional support services take the form of advice, training, or direct assistance for organizations to ensure more efficient or effective operations of managerial, administrative, or related systems. This summary description is operationally defined in terms of the following criteria:

a. Objective: to ensure more efficient or effective operation of management support or related systems by providing advice, training, or direct assistance associated with the design operation of such systems.

b. Areas of application: management support or related systems such as program management, project monitoring and reporting, data collection, logistics management, budgeting, accounting, auditing, personnel management, paperwork management, records management, space management, and public relations.

c. Outputs: services in the form of information, opinions, advice, training, or direct assistance that lead to the improved design or operation of managerial, administrative, or related systems. This does not include training which maintains skills necessary for normal operations. Written reports are normally incidental to the performance of the service.

d. Exclusions and exemptions: a complete list of exclusions and exemptions from the provisions of this circular is attached.

(4) Engineering and Technical Services. Engineering and technical services (technical representatives) take the form of advice, training, or under unusual circumstances, direct assistance to ensure more efficient or effective operation or maintenance of existing platforms, weapon systems, related systems, and associated software. All engineering and technical services provided prior to final Government acceptance of a

complete "hardware system" are part of the normal development, production, and procurement processes and do not fall within the meaning of this category. Engineering and technical services provided after final Government acceptance of a complete hardware system are within the meaning of this category except where they are procured to increase the original design performance capabilities of existing or new systems or where they are integral to the operational support of a deployed system and have been formally reviewed and approved in the acquisition planning process.

6. Exclusions. The attachment lists the Government programs and activities that are excluded from the provisions of this circular unless agencies decide to include them (see Section 8A below).

7. Policy.

A. When essential to the mission of the agency, the proper use of advisory and assistance services is a legitimate way to:

(1) obtain outside points of view to avoid too limited judgment on significant issues;

(2) obtain advice regarding developments in industry, university or foundation research;

(3) obtain the opinions, special knowledge, or skills of noted experts whose national or international prestige can contribute to the success of important projects;

(4) enhance the understanding of, and develop alternative solutions to, complex issues;

(5) support and improve the operation of organizations;

(6) ensure the more efficient or effective operation of managerial or hardware systems; and

(7) secure citizen advisory participation in developing or implementing Government programs that, by their nature or by statutory provision, call for such participation.

B. Advisory and assistance services shall not be:

(1) used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials;

(2) used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;

(3) awarded on a preferential basis to former Government employees;

(4) used under any circumstances specifically to aid in influencing or enacting legislation;

(5) procured through grants and cooperative agreements; and

(6) obtained for professional or technical advice which is readily available within the agency or another Federal agency, except when the contract is entered into pursuant to the procedures and provisions of Circular A-76.

C. No contracts for advisory and assistance services may be continued longer than five years without being reviewed for continued compliance with this circular.

8. Management Controls.

A. Each agency will assure that it maintains an accounting or information system which effectively monitors and reports advisory and assistance service activities.

B. Each agency's management control system for advisory and assistance services shall at a minimum comply with the Federal Acquisition Regulation. Agencies are encouraged to apply the same control system to other procurements which in their judgment require similar management attention, notwithstanding the exclusion of those functions or programs from the provisions of this circular.

C. Each agency will assure that for all advisory and assistance service arrangements:

(1) the elements of the management control system required by this circular have been observed, and all procurements under this circular are administered in accordance with the requirements of the Federal Acquisition Regulation;

(2) as prescribed by the Federal Acquisition Regulation, written approval of all advisory and assistance services arrangements will be required at a level above the organization sponsoring the activity. Additionally, written approval for all advisory and assistance service arrangements during the fourth fiscal quarter will be required at the second level or higher above the organization sponsoring the activity;

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

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

(5) acquisition of advisory and assistance services conform to the Competition in Contracting Act of 1984;

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

(7) advisory and assistance service arrangements are properly administered and monitored to ensure that performance is satisfactory;

(8) the service is properly evaluated at the conclusion of the arrangement to assess its utility to the agency and the performance of the contractor; and

(9) to the extent practicable, contracts for these services require a written report. Such reports typically would document the services delivered and may, in part, take the form of software packages.

D. Delegations of Authority.

(1) Each agency head shall designate a single official reporting directly to him or her who shall be responsible and accountable for assuring that the acquisition of advisory and assistance services meets the provisions contained in this circular. The single official shall have minimum responsibility for the procurement of such services.

(2) Each agency will establish specific levels of delegation of authority to approve the need for advisory and assistance services based on the policy and guidelines contained in this circular. The senior official shall review each advisory and assistance services request which exceeds an amount to be determined by the agency.

E. Policy and procedures governing advisory committees and their membership as well as the procurement of advisory and assistance services are contained in General Services Administration regulations, 41 CFR, Part 101-6.

F. The Federal Personnel Manual, Chapter 304, governs policy and procedures regarding personnel appointments.

G. The Federal Acquisition Regulation governs policy and procedures regarding contracts.

9. Data Requirements.

A. Contracted advisory and assistance services shall be reported to the Federal Procurement Data System (FPDS) in accordance with the instructions in the FPDS Reporting Manual.

B. Contract actions of \$25,000 or less reported on the Summary Contract Action Report (\$25,000 or less) (SF 281) are not covered by this reporting requirement.

C. The following data systems will continue to provide information on advisory and assistance service arrangements within the executive branch:

(1) Central Personnel Data File (CPDF), operated by the Office of Personnel Management, provides data on personnel appointments, segregating advisors, experts, and advisory committee members.

(2) The Federal Procurement Data System (FPDS) provides data on contract arrangements that are monitored by the management control system required by Section 8 of this circular.

(3) Advisory committee data is provided in accordance with Section 2 of Executive Order No. 12024 to fulfill the requirements of Section 6(c) of the Federal Advisory Committee Act, as amended (Public Law 92-463, 5 U.S.C., App.).

10. Effective Date. This circular is effective immediately.

11. Inquiries. All questions or inquiries should be submitted to the Office of Management Budget. Telephone number (202) 395-6903.


James C. Miller III
Director

Attachment

ATTACHMENT

EXCLUSIONS

- I. The following activities are excluded from the purview of Circular A-120.
1. Activities that are reviewed in accordance with the A-76 process. (Such activities must be reported in accordance with Sections 8.A and 9.A.)
 2. Architectural and engineering services of construction and construction management services.
 3. ADP/Telecommunications may be excluded if such functions and related services are controlled in accordance with 41 CFR 201, the Federal Information Resource Management Regulations.
 4. Research on theoretical mathematics and basic medical, biological, physical, social, psychological or other phenomena.
 5. Engineering studies related to specific physical or performance characteristics of existing or proposed systems.
 6. The day-to-day operation of facilities (e.g., the Johnson Space Center and related facilities) and functions (e.g., ADP operations, building maintenance, etc.).
 7. Government-owned, contractor operated facilities (GOCOs) (e.g., Oak Ridge National Laboratory, the Holston Army Ammunition Plant in Kingsport, Tennessee). However, any contract for advisory and assistance services other than the basic contract for operation and management of a GOCO shall come under the provisions of this circular.
 8. Clinical medicine.
 9. Those support services of a managerial or administrative nature performed as a simultaneous part of, and non-separable from, specific development, production, or operational support activities. In this context, non-separable means that the managerial or administrative systems in question (e.g., sub-contractor monitoring or configuration control) cannot reasonably be operated by anyone other than the designer or producer of the end-item hardware.