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BY THE COMPTROLLER GENERAL

Report To The Chairman, Subcommittee On Human Resources, Committee On Post Office And Civil Service, House Of Representatives

OF THE UNITED STATES

Government Agencies Need Effective Planning To Curb Unnecessary Year-End Spending

Continued high year-end spending by some Government agencies indicates a need for management controls. Not all year-end spending is uncalled for. Some may be in the Government's best interest or reflect management's desire to control funds. However, such spending can often adversely affect procurement, the awarding of grants, and subsidies and cause waste.

Congressional and Presidential interest have prompted agencies to take some corrective action. GAO recommends using an advance procurement planning system tied in with the budgetary and apportionment process to help smooth out spending patterns. GAO supports the temporary spending limitation proposed in H.R. 7287 as a means to get a handle on the underlying problems.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197274

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

HSE 02916

Dear Mr. Chairman:

As requested in your May 29, 1979, letter, this report discusses the causes, techniques, and effects of year-end spending by Federal civilian departments and agencies. This report provides a detailed review of the problems encountered by 4 Federal agencies, as well as an extensive analysis of obligation data for fiscal years 1978 and 1979, of 16 major civilian agencies. Our review shows a need for civilian agencies to develop and implement, or improve, an advance procurement planning system.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

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

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States

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

GOVERNMENT AGENCIES NEED EFFECTIVE PLANNING TO CURB UNNECESSARY YEAR-END SPENDING

D I G E S T

Major civilian agencies spent about $366 billion in fiscal year 1979. They spent 21 percent of the amount in the last 2 months of the fiscal year. Individual agency spending during the last 2 months ranged from 9 to 52 percent of agencies' total yearly expenditure. (See app. III.)

Continued high year-end spending surges are of concern of both the Congress and the President. The Congress has limited year-end spending in a few appropriations, held hearings, and taken other steps to deal with the problem. The President and the Office of Management and Budget (OMB) have exhorted agencies to contain year-end spending.

Spending or obligating funds at year-end does not necessarily result in waste. Certain increased spending at year-end may be in the best interest of the Government. Examples include the culmination of long contract negotiations, reimbursements under social programs fixed by law, and an unexpected opportunity to realize savings. (See pp. 7 and 8.)

Good procurement practices require controls to assure that there is a bonafide current need and adequate planning for the procurement of goods and services. Year-end surges in procurement may counter these objectives resulting in unneeded or overpriced procurements and the recording of invalid obligations. Grants also require controls and planning to assure maximum benefits at reasonable costs.

The rationale offered by agency personnel for year-end spending surges that may adversely affect procurement effectiveness are the lack of an effective advance procurement

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planning system; an implicit philosophy that all available funds must be spent before the end of the fiscal year; the concern that a manager's performance is evaluated at least in part on spending ability; and the appropriation, budgeting, and program planning delays. (See pp. 8 to 11.)

Sometimes procedures have been initiated by prudent management to control funds or other practices resulting in the source of excess year-end funds. These practices include holdback of funds as contingency reserves, OMB's method of budgetary control for pay increases, invalid obligations which tie up funds until year-end when they are deobligated, and reprograming of funds.

TECHNIQUES USED TO SPEND EXCESS FUNDS AT YEAR-END

Agencies followed various techniques and procurement processing shortcuts to spend quickly excess funds at year-end, including noncompetitive or sole-source contract awards, contract modifications, incremental funding of existing contracts well beyond current period needs, and prime contract awards to the Small Business Administration under section 8(a) of the Small Business Act long before the agency was prepared to award the subcontract to the minority firm that would actively perform the work. Procurement processing shortcuts included omission of preaward surveys, cost/price analyses, and documentation justifying negotiation. (See pp. 14 to 20.)

EFFECTS OF YEAR-END SURGES ON GOVERNMENT SPENDING

Where the main objective is to spend all available excess funds at the end of the fiscal year, waste is likely to result.

The review disclosed (1) noncompliance with laws and regulations, including recording obligations lacking legal sufficiency, (2) obligating expired appropriations, (3) a top agency official awarding contracts over the objections of contracting personnel, and

(4) possible procurements exceeding current bonafide needs. The report also points out that the most advantageous costs or services may not result under year-end procurement surges because of (1) premature contract award, (2) delayed price negotiations after contract award, and (3) inadequate work statements or specifications. Agency officials also expressed concern about the adverse impact of year-end spending on the personnel and operation of the program and contracting offices. (See pp. 20 to 29.)

On April 30, 1980, GAO issued a report (PSAD-80-41) on year-end invalid obligations under the Department of Housing and Urban Development-assisted housing program. The Department and GAO are working on solutions to correct the problem and carry out the recommendations in the report.

AGENCY ACTIONS AND SUGGESTIONS ON YEAR-END SPENDING SURGES

Agencies are becoming increasingly concerned about year-end spending apparently due to congressional and Presidential interest. The status of advance procurement planning systems at the four agencies reviewed in detail are: the Environmental Protection Agency has implemented a system, the Departments of the Interior and Health and Human Services 1/ are in the process of implementing systems, and the Department of Housing and Urban Development has no current plans for a formal procurement planning system. (See pp. 33 to 36.)

The agencies covered by GAO's review would be required to make changes in their spending

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1/The Department of Health, Education, and Welfare (HEW) was partitioned on May 4, 1980, into the Department of Health and Human Services and the Department of Education. For purposes of this report, all references will be to HEW since all work was done under this Department except for recommendations and current actions taken.

patterns to comply with the proposal in H.R. 7287 to limit spending during the last 2 months of the fiscal year.

Program office involvement in the appropriation and budgeting process and agency operation under continuing funding resolutions during the early months of each fiscal year were given as reasons for preventing improvements in year-end spending. (See pp. 36 and 37.)

The Environmental Protection Agency mentioned the problem of States bunching up, toward the end of the 2-year reallocation period, their requests for grants under the waste water construction program. (See p. 34.)

GAO supports a temporary limitation on year-end spending in H.R. 7287 as a means of getting a handle on the underlying problems.

In GAO's view, the agencies and OMB, over the years, have not given high priority to monitoring and managing the execution of the budget. The Congress has created a mechanism--the apportionment process--which was intended to be the primary means for monitoring and controlling the efficient and effective use of funds. The law, generally known as the Anti-Deficiency Act, gives OMB the responsibility and authority to manage budget execution through the apportionment process. Thus, the budgetary and apportionment process is the appropriate vehicle for administering any limitation on year-end spending. (See p. 38.)

HEW CONSULTING SERVICES

In fiscal year 1978, HEW obligated $110.7 million, or 66 percent, of its total annual expenditures of $169 million for consulting services during the fourth quarter. Again in fiscal year 1979, $88.5 million, or 66 percent, of total annual expenditures of about $135 million for consulting services was obligated in the final quarter.

These expenditures included costs of appointive consultants amounting to $3.8 million in fiscal year 1978 and $12.2 million--an increase of 325 percent--in fiscal year 1979. A possible

explanation for part of the increase is the personnel ceiling imposed by the Congress. (See p. 44.)

GAO believes that increased fourth quarter awards for consulting services could result in improper awards and poorly documented files because of the extraordinary workload placed on program and contracting offices and the purchase of duplicate or unneeded consulting services. (See p. 41.)

FOLLOWUP ON PREVIOUS GAO REPORT ON CONTRACTING FOR RESEARCH AND DEVELOPMENT

GAO previously reported that two-thirds of all research and development contracts exceeding $100,000 awarded by Federal agencies to profit-making firms in fiscal year 1975 were made during the last month of the fiscal year.

Most of the agencies included in this followup work had made progress since fiscal year 1975 in reducing the proportion of year-end research and development contract awards.

Contracts awarded in the last months of fiscal years 1978 and 1979, however, still represented a significant portion of the fiscal year total at all of the covered agencies. (See p. 50.)

GAO previously reported that the Maritime Administration, National Highway Traffic Safety Administration, Federal Railroad Administration, and the Office of the Secretary of Transportation did not have formal systematic procedures for evaluating the usefulness of contracted research and development end products.

The current review disclosed that (1) the Maritime Administration has an acceptable and working end product evaluation system and (2) the Federal Railroad Administration and the Office of the Secretary of Transportation have still not implemented formal procedures for evaluating end products. GAO found instances where performance evaluations were either not completed in a timely manner

(National Highway Traffic Safety Administration) or were not especially informative (Federal Aviation Administration). (See pp. 56 to 59.)

RECOMMENDATIONS

GAO recommends that the Secretaries of the Departments of Health and Human Services, Housing and Urban Development, the Interior, and Education and the Administrator of the Environmental Protection Agency direct their budgeting, programing, and procurement offices to develop or improve

--an advance procurement planning system tied in with the budgetary and apportionment system;

--a system for monitoring the procurement planning system, including the holdback of funds for contingency reserves;

--the agencies' obligation reporting system to provide timely and reliable data reporting of obligations; and

--a system to check that all required documentation is prepared and all required procurement procedures are followed. (See p. 31.)

These officials should

--specify that performance of program and procurement managers will be evaluated on the quality of procurement rather than their ability to spend funds;

--eliminate the practice of spending all available funds--1-year, multiyear, or no-year funds--by the end of the fiscal year; and

--require program managers to initiate procurement requests before appropriations are approved or even before the beginning of the fiscal year where there is a reasonable basis to expect priority items will be approved by the Congress. (See p. 31.)

These officials should also set up a system to ensure that

--binding agreements support obligations,

--procurements of goods and services are made only when a bonafide need exists in the year purchased, and

--the practice of making awards under section 8(a) of the Small Business Act before a subcontractor is identified and ready to receive an award is not used as a device to prolong availability of funds. (See pp. 31 and 32.)

These officials should also determine the causes for the continued high year-end spending surges and take action to smooth out their department's or agency's spending patterns. (See p. 40.)

The Director of OMB should insure that all agencies set up advance procurement planning systems linked with the budgetary and apportionment process to curtail year-end spending surges. (See p. 31.)

To improve their department's consulting services spending patterns, the Secretaries of the Department of Education and the Department of Health and Human Services should

--continue to review consulting services' spending procedures and

--fully implement the data reporting and other requirements directed by OMB Circular No. A-120. (See p. 49.)

GAO recommends that the agencies covered by the followup review of research and development contract awards develop and implement annual procurement plans for research and development projects to spread contract awards throughout the fiscal year.

The Federal Railroad Administration and the Office of the Secretary of Transportation should develop and implement procedures for evaluating the quality and usefulness of end

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products received under research and development contracts.

The Federal Aviation Administration and the National Highway Traffic Safety Administration should place a higher priority on completing evaluation procedures to make the process meaningful and timely. (See p. 59.)

AGENCY COMMENTS

Only three of the eight departments and agencies GAO sent the draft report to provided official comments within the period requested. OMB generally concurred with the report. The Department of Housing and Urban Development and Commerce raised certain questions which are discussed in chapter 7.

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
BOM	Bureau of Mines
ED	Department of Education
EPA	Environmental Protection Agency

FAA	Federal Aviation Administration
FPDC	Federal Procurement Data Center
FRA	Federal Railroad Administration
GAO	General Accounting Office
GPMD	Grant and Procurement Management Division
GSA	General Services Administration
HEW	Department of Health, Education, and Welfare
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
MarAD	Maritime Administration
NASA	National Aeronautics and Space Administration
NHTSA	National Highway Traffic Safety Administration
NIE	National Institute of Education
NIH	National Institutes of Health
OE	Office of Education
OMB	Office of Management and Budget
OST	Office of the Secretary of Transportation
R&D	research and development
SBA	Small Business Administration
SSA	Social Security Administration
VA	Veterans Administration

CHAPTER 1

INTRODUCTION

The problems associated with year-end 1/ surges in Government spending--disruption of orderly funding of Government operations, bypassing of controls designed to prevent wasteful procurement practices, noncompliance with socioeconomic policies, and the inflationary impact on the economy--are of concern to both the legislative and executive branches. The Congress has limited year-end spending in a few appropriations, held hearings, conducted investigations, and requested reviews by us into agency year-end spending practices. This report is in response to the request of May 29, 1979, from the chairman, House Subcommittee on Human Resources, Committee on Post Office and Civil Service. (See app. I.)

We obtained data on spending practices of 16 major civil agencies and selected the Departments of Housing and Urban Development (HUD); the Interior; and Health, Education, and Welfare (HEW) 2/ (partitioned on May 4, 1980, into the Department of Health and Human Services (HHS), and the Department of Education (ED)), and the Environmental Protection Agency (EPA) for detailed review. We also did followup work on our 1977 report on contracting for research and development (R&D) at the Department of Transportation, Maritime Administration (MarAd), and EPA. (See ch. 6.)

We have previously issued various reports which included comments on Government year-end spending practices. Four of these reports are listed below.

--In our report on Federal agencies' contracting for R&D in the private, profitmaking sector (PSAD-77-66, Mar. 24, 1977) that the subcommittee requested we followup on, we reported that 65 percent of 111 R&D contracts were awarded to profitmaking firms

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1/For purposes of this report, year-end means September or the last month of the fiscal year.

2/For purposes of this report, all references will be to HEW since it was responsible for all procurement actions we reviewed. However, recommendations will be made either to HHS or to ED as deemed appropriate.

during the last month of fiscal year 1975. One agency awarded 73 percent of its contract dollars during this month. Results of our followup are included in chapter 5.

--On December 20, 1979, we issued a report on the spending patterns of departments and agencies of the Federal Government (PAD-80-34).

--In a report issued on June 6, 1980 (GGD-80-45), we presented several instances where Federal prisons made purchases, mostly at the end of the fiscal year, for which there was no valid need at the time purchased.

--In a report issued on March 20, 1980, dealing with the need of controls over consulting service contracts at Federal agencies, we noted that 54 percent of the 111 contracts randomly selected for review were awarded during the fourth quarter of the fiscal year (PSAD-80-35).

The executive branch also has indicated concern with the problem of year-end surges in spending. For example, about 15 years ago former President Johnson issued a memorandum denouncing "opportunistic spending in the last days of the fiscal year." More recently, President Carter, in 1977 and 1978, requested the heads of executive departments and agencies to issue instructions curtailing year-end spending and to tell their staffs not to spend or obligate funds for the sole or primary purpose of keeping them from lapsing. He indicated that the need to avoid unneeded or unwise Federal Government spending was more important than ever in this time of high inflation. In 1979 the Director, Office of Management and Budget (OMB), issued to heads of executive departments and establishments more detailed instructions aimed at controlling year-end spending. (See app. II.)

In accordance with the above subcommittee's request, we initiated a review at civilian agencies to determine

--how the agencies, covered by our 1977 report on R&D contracts (PSAD-77-66), have improved the distribution of their spending on contracts to profitmaking firms (see ch. 5);

--whether adequate justification exists for the increase in spending by HEW for consultant fees and services during the last quarter of the fiscal year (see ch. 4);

--whether there is a significant increase in grants and other noncompetitive awards toward the end of the fiscal year in selected agencies within HEW and other departments (see ch. 2); and

--what specific legislative recommendations are feasible to control year-end spending sprees.

In performing this review, we also attempted to determine whether agencies fully complied with applicable regulations and procedures, including the August 7, 1979, OMB directives, when they made year-end awards of noncompetitive negotiated contracts and grants or whether they were using any special procedures or shortcuts. (See ch. 6 for scope of work performed.)

SPENDING PATTERNS OF THE 16 MAJOR CIVILIAN AGENCIES

The 16 major civilian agencies covered by our review obligated or spent $346 billion and $366 billion, respectively, during fiscal years 1978 and 1979. 1/ Year-end spending by these agencies ranged from 6 to 49 percent of annual obligations or expenditures during September 1978 and from 5 to 36 percent in September 1979.

Below we show for the 16 civilian agencies for fiscal years 1978 and 1979 (1) the combined monthly obligations and (2) the September surge in obligations for each of the agencies. In appendix III we present data in table format on quarterly obligations, combined August and September obligations, and September surges for the civilian agencies.

Our source of data for agency obligations is the "Treasury Bulletin" published monthly by the Department of the Treasury. We used the tables entitled "Gross Obligations Incurred Outside the Federal Government by Department or Agency." Excluded from our analyses were obligations for the Commodity Credit Corporation under the Agriculture Department; the Government National Mortgage Corporation and housing for the elderly or handicapped under HUD, and, under the Treasury Department, those for interest on the public debt, interest on refunds and so forth, and general revenue sharing. These obligations were excluded because they are not directly controlled by the departments.

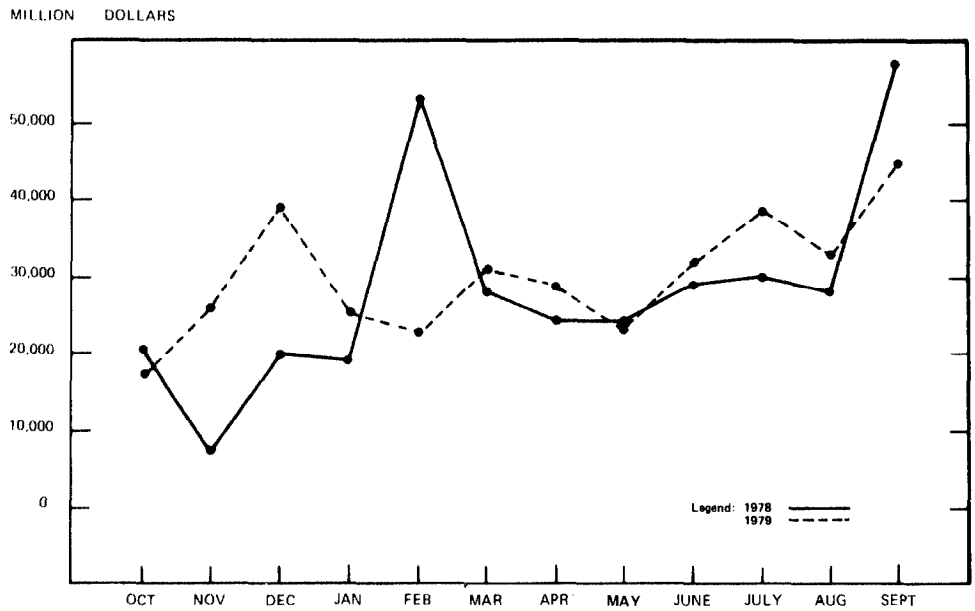
1/Excludes expenditures not directly controlled by the agencies (for example, Commodity Credit Corporation and interest on public debt).

GRAPHS SHOWING YEAR-END SPENDING PATTERNS

Figure 1 compares the combined monthly obligations of the 16 civilian agencies for fiscal years 1978 and 1979. There is no set pattern of obligations for the 2 years. Two large differences exist in the obligations for the first quarter 1978 and the second quarter 1979. These were caused by huge fluctuations in obligations by the Treasury Department. Another comparison of note is a reduction of the increase in obligations during September for 1979 versus 1978.

Figure 1

COMBINED MONTHLY OBLIGATIONS FOR SIXTEEN AGENCIES
FISCAL YEARS 1978 AND 1979



With figures 2 and 3 comparisons can be made of the September or year-end surges for the 16 agencies during fiscal years 1978 and 1979. HUD had the greatest improvement in curtailing year-end spending in fiscal year 1979 from that in fiscal year 1978. A majority of the agencies had year-end expenditure surges. 1/

1/For purposes of this report, the September surge is defined as the amount of funds obligated during September which are in excess of the average amount of funds obligated during the prior 11 months. The September excess figure is then divided by the 11-month average to obtain the surge percentage.

Figure 2

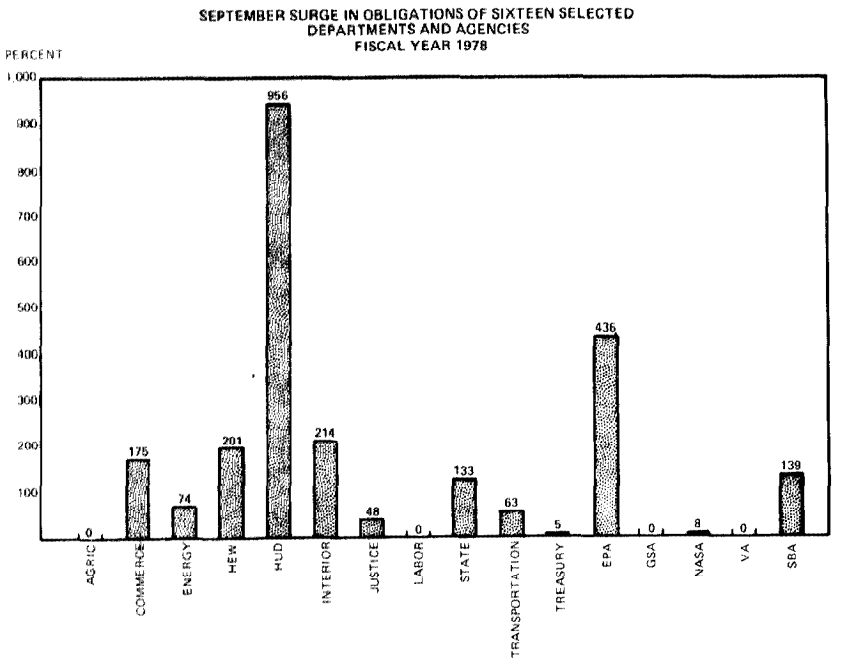
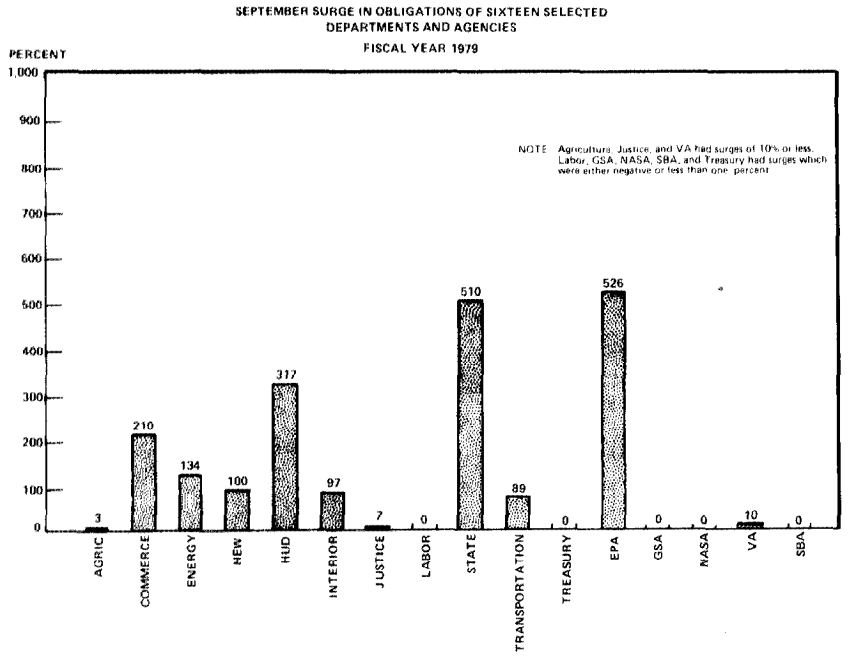


Figure 3



CHAPTER 2

YEAR-END SPENDING

CAUSES, TECHNIQUES, AND EFFECTS

Although there has been an overall reduction in year-end spending by the 16 civilian agencies in fiscal year 1979 from that in fiscal year 1978, the continued high year-end spending by certain agencies indicates a need for improved management controls over such spending.

Good procurement practices require controls to assure that there is a bonafide current need and adequate planning has been done for the procurement of goods and services. Grants also require controls and planning to assure maximum benefits at reasonable costs. The controls provide for adequate competition, price and cost analysis, negotiation of a cost proposal, a clear work statement, proper levels of review, and other steps to ensure that a purchase is justified and in the best interest of the Government. Excessive year-end spending counters these objectives by circumventing the controls with the resultant potential for waste and higher prices. Under certain conditions, however, increased spending at year-end may be in the best interests of the Government. Our discussion of causes, techniques, and effects of increased year-end spending follows.

The causes of year-end spending are internal or external, actual or perceived, and either immediate or underlying. For example, an internal cause is an agency's practice that does not distinguish between appropriations available for differing time periods, while an external cause is the requirement to make periodic payments under social service programs. Other causes pertain to actual or perceived pressures of top agency officials to spend funds in the year appropriated. We believe, however, that an important underlying cause is the lack of an advance procurement planning system. Agency officials indicated that a shortage of trained program or procurement personnel was a problem.

Agencies followed various techniques and procurement process shortcuts to quickly spend excess funds available during the latter part of the fiscal year. These techniques and procurement shortcuts appear effective in view of the continued surges in year-end spending. Some of the techniques to speed up contract or grant awards included the excessive use of sole-source awards; contract or grant modifications; incremental funding of existing contracts and grants for future services; procurement of products or

services without a current need; and awards to the Small Business Administration (SBA) under the Small Business Act, section 8(a) program, in some cases long before a recipient subcontractor was selected. Procurement process shortcuts included the omission of preaward surveys, cost/price analyses, and documentation justifying negotiation.

Year-end spending under certain conditions may be appropriate. Where the main objective, however, is to spend all remaining excess funds at the end of the fiscal year, waste is likely to result. Our review showed how waste and higher prices could result from the failure to obtain adequate competition, cursory price and cost analyses, delayed negotiation of cost proposals, premature awards, inadequate work statements, unnecessary or unjustified purchases, and curtailment of contract administration. We were advised there is also an adverse impact on the personnel and operation of the program and contracting offices.

Expressions of congressional concern and Presidential, OMB, and department directives to curtail unnecessary year-end spending appear to have had little effect. For example, for the four civilian agencies selected for detailed review--HEW, HUD, Department of the Interior, and EPA--year-end obligations or spending during the month of September 1978 ranged from 22 to 49 percent of the total annual expenditures and from 15 to 36 percent during the month of September 1979. For these four agencies the September surge in spending ranged from 201 to 956 percent for 1978 and from 97 to 526 percent for 1979. (See app. III for tables of statistics on spending patterns.)

Our discussion of the causes, techniques, and effects of year-end spending surges follow.

CAUSES OF YEAR-END SPENDING

Spending or obligating funds at year-end does not necessarily result in wasteful or inappropriate spending. We found or were advised by agency personnel that increased spending at year-end may (1) at times be in the Government's best interests, (2) be due to practices which adversely affect procurement and contribute to waste, or (3) be due to management's desire to control funds.

Lengthy negotiation procurement process

At the EPA office in Research Triangle Park, North Carolina, the average length of time for processing new

competitively negotiated contracts ranged from 4 to 6 months. For this reason EPA directed that procurement requests must be submitted by April 30 of each year for 85 percent of total funds available for contracts. Since at least 4 months is normally required to award a negotiated competitive contract, EPA believes that many awards would normally be made during September. (See ch. 3 for details on EPA's system to improve procurement planning and controls in use of contracting funds.)

A Department of Commerce official advised us on July 10, 1980, that an award after a lengthy negotiation process may not always result in a good procurement. He felt that the process could still be cut short in order to make the award at year-end.

Agency reimbursements required by law

Certain reimbursements to individuals or States that are required by law limit agencies' control over year-end spending surges whenever such payments fall due at the end of the final quarter of the fiscal year. For example, the Social Security Administration (SSA), under HEW, has little control over (1) the Supplemental Security Income program where direct payments to beneficiaries and time of payment are established by law and (2) the Aid to Families with Dependent Children program where Federal grants to States are based on formulas reflecting State payments to beneficiaries.

Advantageous procurements

Agencies may have an unexpected opportunity to realize savings through advantageous procurement actions at year-end. For example, SSA was able to realize about $3.5 million in savings by accepting an option to buy instead of lease automatic data processing equipment by September 30, 1978. The lessor made the offer on August 21, 1978.

Lack of an advance procurement planning system

An advance procurement planning system requires that the efforts of all personnel responsible for procurement of goods and services be coordinated as early as practicable in order to obtain required items of requisite quality, on time, and at the lowest price. Lack of an advance procurement planning system may contribute to excessive contracting at year-end that increases the likelihood of noncompetitive

procurements, shortcutting the procurement process, higher prices, and overtime.

Advance procurement planning includes

--scheduling the initiation of procurement actions to meet program needs,

--planning uniform distribution of workload throughout the fiscal year,

--determining the adequacy of current program and procurement manpower resources to meet anticipated requirements,

--establishing a system for monitoring procurement activities and updating plans as changes occur in requirements, and

--timing demands on the private sector so that prices will be reasonable.

Following are examples of agencies' spending techniques where there were advance procurement planning problems.

--The Albuquerque area office of the Bureau of Indian Affairs (BIA), Department of the Interior, had no advance procurement plan or validated list of unfunded requirements. Area office officials stated that division supervisors met during the last week of September to divide up available funds without supporting requisitions, justifications, or verified need. There were instances where purchase requisitions were written weeks after the purchases were made, and some contained no justification whatever. Several million dollars were reprogramed to this office during the last 2 months of fiscal years 1978 and 1979.

--The Office of Education (OE), HEW, had an advance plan for awarding grants, but program offices often submitted their grant requests to the Grant and Procurement Management Division (GPMD) much later than required. This proposed grant list is graded with the highest rated priority grants at the top. The grants are then awarded according to these priorities until funds run out. If the program office delays submitting this list and it arrives at GPMD late in the fiscal year, GPMD does not have time to properly evaluate the grants prior to the end of the fiscal year.

The Strengthening Developing Institution Title III Grant program is a good example of this problem. Over 450 grants were submitted to GPMD by this program office in the final weeks of fiscal year 1979. The list was to be submitted in June, but slipped about 2 months. Due to time constraints, GPMD personnel were not able to properly process these grants, and, as a result, the grants were awarded just prior to the end of the fiscal year without completing the required GPMD evaluation of the grants and negotiation with the grantees.

No distinction between 1-year, multiyear, and no-year appropriations

In spite of large and increasing unobligated balances, agency personnel seem impelled to obligate all available funds in the year appropriated, without distinguishing between funding periods, to avoid agency reprograming actions or congressional inquiries about unspent appropriations. Also, program managers make every effort to obligate all available funds since they have no assurance that unspent funds at year-end would be returned to them the following fiscal year. For this reason there are year-end spending surges even where an agency receives no-year funds. For example:

--The Water and Power Resources Service of the Department of the Interior had September surges of 57 percent in 1978 and 98 percent in 1979, even though no-year funds were involved.

Manager's performance evaluated on spending ability

Representatives of two agencies believed that a program manager's performance was evaluated on the ability to obligate or spend all available funds. The dilemma of program managers was brought out in Senator William S. Cohen's remarks to the Senate Government Affairs Subcommittee. Senator Cohen stated that program and budget personnel are in a bind. They are expected to spend the public's money prudently. But, if they plan effectively, budget prudently, spend less, and return tax dollars to the Federal Treasury, they face the prospects of having budgets slashed the next year. He also felt that as long as the Congress focuses its primary attention on the amounts spent and not on quality of program expenditures, the situation will continue. Therefore, there is no incentive for prudent managers to save tax dollars. An example of such frustration follows.

--During budget hearings, an Assistant Secretary of HUD had her budget request reduced by $11 million, the amount of unspent funds from a previous multiyear appropriation. The reason for the unspent funds was the desire of the newly appointed Assistant Secretary to carefully review certain procurement requests before approval. The funds were ultimately restored.

Appropriation, budgeting, and program planning delays

Agency officials claimed that delays in receiving Congressional appropriations through OMB and distribution through the agency's planning and budget process compress the period for issuance of purchase requisitions by program managers and the processing of the procurement actions. At EPA, laboratory officials stated that approved operating plans are not received by laboratory administrators until the second quarter of the fiscal year.

Actions can be taken by agency program and procurement personnel before funds are appropriated and allotted that would reduce year-end procurement surges. (See pp. 31 and 37.)

The extent of delays in approval of appropriations are shown below.

Appropriation Approval Dates

Department/agency	Fiscal years 1979	1980
HEW	10/18/78	(a)
HUD	09/30/78	11/05/79
Interior	10/17/78	11/27/79
EPA	09/30/78	11/05/79

a/Amendment still in disagreement at March 26, 1980.

SOURCES OF YEAR-END FUNDS

Fund holdbacks or contingency reserves

An agency may hold back a percentage of funds allotted to its programs to take care of an emergency or to be able to make additional funds available for a particular program. These reserve funds are also referred to as contingency reserves or as unassigned funds. If an agency maintains and releases substantial amounts of contingency reserves to

operating activities in early September without a procurement plan, then shortcutting of the procurement processes with wasteful procurement may result.

Bureau of Mines (BOM), Department of the Interior, officials advised us that contingency funds may be set aside for unexpected short-term projects. Officials of the National Institutes of Health (NIH) of the Public Health Service, HEW, indicated that some funds are routinely held back for contingencies, primarily to insure funding pay increases. Funds, released after pay increases, are covered by supplemental appropriations, are spent on items planned for earlier procurement but postponed because the funds were being used to cover unfunded pay increases. EPA attempts to reserve 10 percent of each year's appropriations for emergencies.

Restrictions against budgeting for pay increases

Another reason given for year-end spending surges is the OMB restriction against budgeting for pay raises. Therefore, agencies request supplemental appropriations after the President announces the pay raise. Since an agency often does not find out until late in the fiscal year the amount of the supplemental appropriation, it must hold back sufficient funds to cover its projected salaries and expenses in the event insufficient money is made available to cover the pay raise. At HUD we were informed this was done by delaying certain planned equipment expenditures until it knew the amount of the supplemental appropriation.

OMB maintains that agencies are generally able to absorb approximately 20 percent of any pay increase with funds remaining from initial appropriations that are not used for personnel expenses because of attrition and unfilled positions resulting from the slow start up of a project.

OMB states there is planning for pay increases on a Government-wide basis, but funds are not allocated to agencies and a supplemental submission is required. This process is used as a management tool to reduce waste and excess expenditure of funds.

While we learned that several agencies establish reserves to cover unfunded pay increases and that these

reserves are a prime source of funds for year-end spending, we did not review in detail the effects of the OMB restriction against budgeting for pay increases.

Invalid obligations tie up funds until deobligated near year-end

Commitments are reservations of obligational authority or funds available for obtaining goods and services under a proposed procurement action. The commitment should be closed out when the obligation is set up. Overcommitment of funds occurs when the proposed procurement action is either canceled, the scope of work is reduced, or the cost of the proposed procurement is overestimated.

An example of the significance of overcommitments was observed at BOM where three activities under the Director of Mining had overcommitted $16 million during fiscal year 1979. The situation occurred because commitments were treated and reported as unliquidated obligations and reported as such to the Department of Treasury and to OMB even though binding agreements, as required by 31 U.S.C. 200, were not entered into until months later. At the year-end, the unfulfilled commitments were reversed and funds became available for obligation. After our inquiry, BOM agreed to record only valid obligations.

Reprograming of excess funds

Our review indicated that reprograming is a prime source of funds for year-end spending. Agency officials stated the reasons for reprograming actions may be due to revised program priorities, emergencies, or just transferring funds from slow moving or canceled programs to prevent excess year-end funds being returned to the Federal Treasury. Examples of reprograming actions follow.

--Nationwide BOM reprogramed $7 million and $6.8 million during the last month of fiscal years 1978 and 1979, respectively.

--BIA reprogramed $3.5 million and about $7 million for its Albuquerque area office to spend during the last two months of fiscal years 1978 and 1979, respectively. The funds were reprogramed from BIA's central office and from agency offices under the area office.

TECHNIQUES FOR SPENDING AVAILABLE FUNDS

Noncompetitive or sole-source contract awards

Government-wide statistics supplied by the Federal Procurement Data Center (FPCD) for major civilian departments or agencies do not show a significant increase in noncompetitive awards at year-end for fiscal year 1979. Individual agencies, however, still show some large increases in noncompetitive awards in the last quarter. These statistics excluded those for HUD because it failed to submit the required procurement data in the desired format. Also, the data reported is incomplete since it represented only about 93 percent of the total noncompetitive awards. The following table shows the overall percentages by quarters and for September 1979 for 15 of the 16 departments and agencies covered by our review.

Noncompetitive Awards by Percentages and Quarters for 15 Departments and Agencies for Fiscal Year 1979 (note a)

Department/ agency	Total dollars	Percentage 1st quar.	2d quar.	3d quar.	4th quar.	Sept. 1979
	(millions)					
Agriculture	$ 31.0	23.0	13.5	26.4	37.0	18.0
Commerce	56.6	30.7	28.3	7.5	33.5	23.0
HEW	411.3	30.3	9.8	32.9	27.0	21.4
HUD (note b)	-	-	-	-	-	-
Energy	4,193.1	44.2	7.5	42.2	7.1	4.6
Interior	394.4	25.8	51.5	3.3	19.3	8.3
Justice	39.6	41.3	19.2	14.2	25.3	15.1
Labor	12.2	-	-	18.2	81.8	50.1
State	.5	-	-	7.5	92.5	58.2
Transportation	133.1	19.1	7.4	57.0	16.6	2.1
Treasury	16.2	22.0	33.9	6.4	13.2	6.4
EPA	45.0	9.0	15.3	19.4	56.2	31.6
General Services Administration (GSA)	120.5	40.0	32.3	15.0	12.7	3.2
National Aeronautics and Space Administration (NASA)	1,221.4	78.7	3.9	2.5	15.0	9.1
SBA	13.6	7.3	12.9	9.0	70.8	62.8
Veterans Administration (VA)	397.8	18.3	14.4	18.8	48.6	31.0
Total	$7,086.3	45.7	10.6	29.7	14.0	8.6

a/These figures summarized from data prepared by the FPDC for the Senate Government Affairs Subcommittee on Oversight of Government Management.

b/Although HUD submitted fiscal year 1979 data, FPDC rejected it due to a change in HUD's reporting criteria.

The above table shows total noncompetitive awards during the fourth quarter and the month of September 1979 were only 14 and 8.6 percent, respectively. Yet, certain agencies had substantial increases in fourth quarter and September 1979 noncompetitive awards. For this reason, use of combined statistics may obscure undesirable situations, and one must look at individual agency or even subagency reporting. For example, we noted that the percentages of noncompetitive

awards to total fiscal year 1979 noncompetitive awards for the above fourth quarter and September for the Department of Labor (81.8 and 50.1), the Department of State (92.5 and 58.2), EPA (56.2 and 31.6), SBA (70.8 and 62.8), and VA (48.6 and 31.0) were substantial. We did not review the reasons for these substantial increases in noncompetitive awards during the fourth quarter of fiscal year 1979. The reason for the high percentages at SBA may be due to other agencies using section 8(a) of the Small Business Act to spend excess funds at year-end.

Examples of year-end, sole-source awards follow.

--Seven contracts signed on September 30, 1979, by the Acting Commissioner, OE, HEW, were sole-source awards. This official signed another 10 contracts on this date, but we did not determine the extent of competition. The contracts were awarded to (1) fund a teachers' professional development program, (2) develop a career program for out-of-school youths, (3) expand and complete a Higher Education Project for the Handicapped, (4) organize a conference, (5) establish a counseling motivation project, (6) develop an educational policy development center for disadvantaged children, and (7) train agencies in team management techniques.

--BOM awarded a sole-source, firm-fixed-price contract on September 29, 1979, to purchase six laboratory-size clarifier/thickener units to be used in aluminum plant research at a total cost of $23,130. Delivery was to be in 70 days, and no-year funds were obligated. The purchase request was received by the procurement section on September 4, 1979. This did not allow a reasonable procurement processing period. The procurement requester stated that the award would not have been made in fiscal year 1979 if it had not been for unexpected funds which would have been lost to the program.

Another example of questionable noncompetitive awards is included in appendix V.

Contract modifications

Contract modifications mean any written alteration in specifications; delivery rate and destination; contract price; quantity; or other contract provisions, including incremental funding and task orders. Contract modifications are a quicker way to obligate funds for goods and services

instead of the formal and lengthy contract award process. Use of sole-source modifications eliminates the need to seek competition, may result in higher prices and expedite the spending of funds, and alleviates the procurement workload. Some problems associated with the use of modifications at year-end follow.

--Twelve of the 14 problem cases we noted, some with more than 1 contract action, that were developed at the BIA-Albuquerque area office involved 15 contract modifications. Nine of the 15 modifications were awarded during September, with 6 being awarded during the last week. In six instances the contract modifications were awarded during the following fiscal year but charged to the prior fiscal year appropriation. In one case, the modification was dated July 24, 1979, but fiscal year 1978 appropriation was charged--almost 10 months after the appropriation expired. The above modifications covered funding of educational and social programs, law enforcement, water rights litigation research, aerial surveys, industrial development, purchase of relocatable buildings, school heating conversions, and partial renovation of an Indian school.

--Three of the eight problem cases that we called to the attention of BOM's Denver Procurement Office involved a modification to a contract and to two grants. The modifications were awarded during the last 5 days of September 1979. The contract modification funded a research project on how to mine coal. The grant modifications funded research for extracting chromium and for evaluating metal resources at deep sea mining sites. We questioned these modifications because in the three cases the actions appear to have been taken to spend excess funds.

Incremental funding

Incrementally funded contracts cover total contract effort over a multiyear period, and funds are allocated as they become available to cover increments of performance. Under this method, funds can be allocated to ongoing contracts on a phased basis or when performance criteria are met by a simple unilateral modification, and funds are safe from reprograming. An EPA official stated that the incremental funding procedure avoids delays associated with the recertification process for year-end funding carryover. An incremental funding example follows.

--In September 1978 EPA had a pending contract with a fund reservation of $1,035,431 which could not be awarded before year-end. The agency incrementally funded several other contracts with the available funds. One of these was a multiyear contract, covering the period June 1977 to September 1980, for operating and maintaining a high temperature facility for testing ceramic bags. Incremental funding was supplied to this contract to cover the period of January to September 1980 in the amount of $514,549.

Section 8(a) of the Small Business Act contracting

The section 8(a) program was established under the Small Business Act to provide Government contracts to disadvantaged business owners to assist them in developing their capability to compete effectively in the open market. Under the program, agencies enter into prime contracts with SBA to obtain goods and services from disadvantaged business concerns. SBA in turn requests the agency to negotiate subcontracts with designated firms to fill the needs. SBA retains the authority to approve any negotiations and to award the subcontract.

Based on agency figures submitted to FPDC, 15 civilian departments and agencies awarded about $248 million in prime contracts during fiscal year 1979 to SBA under section 8(a) of the Small Business Act and to Indians under the Buy Indian Act (25 U.S.C. 47). During September 1979 $68.4 million, or about 28 percent, of the fiscal year total were obligated under these acts.

Time did not allow us to obtain a breakout between awards under section 8(a) of the Small Business Act and under the Buy Indian Act. We believe, however, that the bulk of the awards were made under the Small Business Act since BIA and the Indian Health Service of HEW were the only agencies affected by the Buy Indian Act. Discussed below are HUD's use of the Small Business Act's section 8(a) to spend excess funds at year-end, reasons therefore, and examples of questionable year-end awards.

During fiscal year 1978, HUD awarded 31 prime contracts for $3.6 million to SBA under the 8(a) program. Twenty-two contracts for $2.4 million, or about 66 percent, were awarded during September 1978. Reasons given to us for this year-end surge were that (1) program offices with good job planning gave a low priority to proposed section 8(a) procurements because they were easy to process and award and (2)

other offices with no procurement plans may delay issuance of procurement requests until late in the fiscal year and then use the section 8(a) program to avoid funds being lapsed.

While the 8(a) program has commendable objectives, it seems to be used by agencies to avoid the lapse of 1-year appropriations. The award of the prime contract to SBA is an incomplete procurement since no supplies or services can be obtained until a subcontract to an 8(a) firm is awarded. This often occurs many months later. Some examples follow.

In four instances HUD awarded prime contracts using 1-year funds to SBA at year-end, but, as yet, no subcontracts have been negotiated.

--On September 27, 1978, HUD awarded a prime contract for $475,000 to SBA for administration of HUD's Technical Clearing House. The procurement request was received on September 8, 1978. The statement of work has been changed several times, with HUD still having difficulty after 19 months in finding a small business firm capable of doing the work. We question the need for awarding a contract under the Small Business Act before determining if any small business firm had the capability to do the work.

--On September 27, 1979, HUD awarded a prime contract for $400,000 to SBA to develop and conduct a training program. The procurement request was dated August 31, 1979. We question the rush to award the prime contract since the subcontract had not been negotiated some 7 months after the prime contract award.

The other two similar cases and an example of a procurement to save fiscal year funds are described in appendix V.

Bypassing the normal procurement process

Procurement procedures are set up to insure compliance with laws and regulations and procure needed goods and services of acceptable quality at reasonable prices with as much competition as possible and deliveries scheduled as required. Bypassing procurement procedures may result in procurement of unneeded goods and services at higher prices and noncompliance with applicable laws and regulations. This report discusses the various consequences of year-end procurement actions when the apparent reason is to spend excess

funds. Appendix IV shows the extent and type of procurement processes that were bypassed as well as other questionable procurement practices. Some of the more frequent shortcuts in the procurement process were (1) proposed procurement actions were not published in the Commerce Business Daily, (2) master bidders' lists were not consulted for additional sources, (3) determinations and findings were not prepared, (4) price or cost analysis was waived without justification, and (5) no memorandums of negotiations were prepared.

EFFECTS OF YEAR-END SPENDING

Noncompliance with laws and regulations

Our review of year-end procurement transactions disclosed instances of (1) noncompliance with laws dealing with the validity of obligations and (2) questionable use of certain types of funds. Noncompliance with laws and regulations was caused in some cases by the pressure to obligate excess funds, lack of knowledge of legal requirements, or incorrect guidance for implementing such laws. These shortcomings in application of laws and regulations have resulted in questionable procurements of goods and services and charging incorrect appropriations.

In a report issued on April 30, 1980 (PSAD-80-41), we reported that a substantial portion of the year-end obligations reported by HUD since fiscal year 1976 for its no-year appropriation for assisted housing have been invalid because they did not meet the statutory test of legal sufficiency. In fiscal year 1979, HUD deobligated about $7 billion of the invalid obligations of prior years and reobligated the amounts involved. HUD officials indicated that they expected several billion dollars in deobligations in fiscal year 1980.

We concluded that the documentation supporting the obligations did not meet the criteria of 31 U.S.C. 200 which states, in part, that no amount shall be recorded as an obligation unless it is supported by documentary evidence of a binding agreement.

We recommended that HUD establish the amount of valid obligations in the assisted housing account and record and report obligations on the basis of executed contracts. Also, we suggested that the House and Senate Appropriation Committees consider deferring any action on HUD's current appropriations request for the account until an accurate and complete statement of valid obligations is reported to the Congress.

The Secretary of HUD agreed that if the Comptroller General insisted that a commitment is not an obligation and may not be shown as such, HUD would revise its procedures accordingly. However, he disagreed with the Comptroller General's suggestion that HUD may be overstating its performance and could be misleading the Congress. (See app. VI for our complete report.)

SSA obligated two discretionary grants, one for $200,000 on September 29, 1978, and the other for $104,765 on September 28, 1979, even though the formal notices of award, which obligated the Government, were not issued until November 13, 1978, and November 2, 1979, respectively, both dates in the succeeding fiscal years. The obligations, however, were recorded against appropriations that would have expired at the end of the fiscal year. We believe that the formal notice of grant award is the appropriate obligating document for the discretionary grants of this nature. Twenty-five other grants, awarded in fiscal year 1980 and totaling $2.7 million, were also charged to the preceding fiscal year appropriation that had expired.

SSA's policy is to record obligations for discretionary grants on the basis of an internal approval list prepared by the Grants Management Branch when notifications of grant approval are received from the program offices. The Notice of Grant Award, which is the formal notice to the grantee, was used as the obligating document for these grants. HEW policy states that the Notice of Grant Award shall not be binding on the Government unless signed by the head of the granting agency or by the properly appointed cognizant grant officer.

SSA officials said they have consistently followed this practice because funds could not always be obligated before the end of the fiscal year if they waited for formal approval of grants. An SSA official advised us that they have discontinued this practice.

We also found other examples in which funds were obligated after their period of availability had expired and thus did not meet the requirements of 31 U.S.C. 200.

--A BIA contract modification for $166,049 was signed by the contractor on November 7, 1978, retroactive to October 1, 1977, and cited a fiscal year 1978 appropriation. The modification added funds to the Indian higher education programs already in progress.

--A BIA contract modification for $50,000 was awarded on December 14, 1979, effective October 1 to 31, 1979,

for training assistance in accounting for contracts. Fiscal year 1979 instead of fiscal year 1980 appropriations were charged. We also noted that the contracting officer signed the modification after the effective period of performance.

--A BIA contract modification for delivery of three road graders for $172,665 showed a contractor's signature dated September 28, 1979. The modification, however, was not mailed to the contractor for signing until October 5, 1979. Apparently the modification was backdated to obligate funds in an expiring appropriation. This procurement action was one of several questionable procurement actions involving the basic contract for road graders. BIA advised us that the cost of the three road graders ($172,665) will be charged to the fiscal year 1980 appropriation.

Procurements under the Indian Self-Determination Act exceed evident needs

The Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638) allows BIA, upon a request from a tribe to award contracts to the tribal organization for performance of services previously performed by BIA. Since fiscal year 1977, the appropriation acts have provided that resources made available to tribes through such contracts shall remain available through the next fiscal year. In five of the seven Public Law 9-638 contracts using this authority that we reviewed, BIA unilaterally added funds to apparently fully funded contracts, although increased funds had not been requested by the tribes and there was no indication of how the extra funds would be spent. We believe that the increased funding of these contracts was being used to save appropriations from expiring. Some examples follow.

--Three modifications totaling $69,000 were awarded to an Indian organization on September 14, 26, and 29, 1978, to increase funds for operating the law enforcement program. The tribe requested $23,000, but the Albuquerque area office obligated $16,000 more than was asked for. An additional $30,000 was then obligated because funds were available and would have lapsed if not obligated by year-end. The area office advised us that the obligation will be charged to the fiscal year 1979 appropriation.

--A modification for $140,000 was awarded on September 19, 1979, to an Indian school board to increase general assistance grant funds and the Child Welfare

Assistance program. We found no indication that the Indian tribe requested the funds.

Other procurements without a current bonafide need

Title 31 U.S.C. 712(a) requires that annual appropriations shall only be applied to the payment of expenses properly incurred during that year or to the fulfillment of contracts properly made within that year. Decisions of this office have interpreted this statute as limiting the use of annual appropriations to the purchase of products or services which satisfy a bonafide need of the current fiscal year. At the BIA Albuquerque area office we found that 8 of 14 problem cases were awarded without any documentation of current bonafide need. For example:

--A purchase order was issued on September 27, 1979, and later modified on November 15, 1979, for $109,025.60 for the purchase of 18 gas and 10 electric golf cart-type vehicles. The procurement request was received by the procurement office on September 27, 1979, with distribution of vehicles to be determined later.

--A purchase order was issued on September 27, 1979, for $61,353 for 15 lawn mowers/snowplows. The justification stated that lawn mowers were needed for mowing grass and for snow removal during the winter months. We questioned this purchase since there were no requisitions from the receiving groups.

Top agency official awarded contracts over objections of contracting personnel

Officials of OE (now ED) stated that procurement actions were turned into sole-source procurements and "pushed" through the system at year-end. By awarding contracts during the final days of a fiscal year, sound procurement procedures may be bypassed and higher prices and questionable procurements of goods and services may result. At OE we found 17 contracts were signed on September 30, 1979, by the then Acting Commissioner of Education over the objections of the Director, GPMD. We reviewed seven of the contracts in detail, and four of these were examples of questionable awards. An example follows.

--OE awarded a sole-source, cost reimbursement contract on September 30, 1979, for $423,000 to a State

university to fund the State's teachers professional development program. The negotiator received the procurement package on September 24, 1979, with a stipulation that the award should be made by September 30, 1979. The award carried out the Acting Commissioner's promise to honor the former commissioner's commitment to provide $423,000 to fund the proposal. The negotiator could not recommend signing the contract but presented it for signing because of the Acting Commissioner's commitment. The negotiator's objections were: (1) the type of expenses being charged to salary and expense funds, (2) the use of a procurement contract instead of a grant for an assistance program, and (3) the inability to ascertain the reasonableness of the cost proposal. The project officer was concerned with the insufficient technical and cost data and because the proposal was extremely vague.

According to a procurement office representative, the justification for awarding sole-source contracts at that particular time included: (1) the projects were worthwhile, (2) the procurement office was understaffed, (3) the contracting specialists were required to monitor new employees, and (4) it was the beginning of the school year.

Other examples are included in appendix V.

Most advantageous costs or services may not result under year-end procurement surges

In our recent study 1/ of military requirements, we found that the use of noncompetitive awards and modifications may result in increased prices. In order to speed up spending of excess funds by the end of the year, agencies may also curtail negotiations or readily accept a contractor's price proposal with little, if any, price or cost analysis. Other factors impacting on reasonableness of prices and quality of product or services are: (1) lack of timely negotiation of contract costs or price, (2) limited time given

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1/Our report issued on June 11, 1979, by the European Branch, International Division, to the Commander in Chief, U.S. Army Europe and the Seventh Army (B-132969).

for bid response that prevents some firms from bidding, and (3) use of inadequate work statements. Although shortcuts in procurement processing may at times result in advantageous procurements, there is an increased probability that the Government will pay higher prices to obtain goods and services with lesser quality and not receive them at the time desired.

The rush to award contracts can seriously impair the objectivity, as well as thoroughness, of the proposal evaluation process. Another factor affecting contract costs is the weakened Government bargaining position in buying goods and services at year-end. According to certain military contracting officers, contract prices increase as much as 20 percent because contractors (1) know that funds must be obligated or lost, (2) must use more costly subcontracting in order to cover the increased workload, and (3) try to protect themselves against mistakes made in their hurried efforts to submit bids on the increased number of solicitations occurring at year-end. Contractors dealing with civilian agencies at year-end undoubtedly follow the same philosophy as Department of Defense contractors. Discussed below are some of the other factors affecting procurement processing.

Premature year-end contract award

We believe that the following contract should not have been awarded until an agreement was reached between all parties concerned in the cooperative venture.

--EPA awarded a cost-plus-fixed-fee contract on September 29, 1978, for evaluating a low-emission coal burner technology. Experimental burners were to be constructed and installed on two boilers of a utility company. This project was first included in the fiscal year 1978 budget proposal of March 1977 as a special initiative in response to the President's increased emphasis in coal. The budget office's first concrete indication that the project would be funded at the estimated level came in December 1977. The initial obligation was for $3.2 million, which was increased to the fully funded amount of $4.3 million on March 22, 1979. The period of performance was 46 months. As of November 19, 1979, the contractor had spent less than $100,000, and no agreement had been reached with a cooperative host utility. The project officer said that the large initial obligation was consistent with EPA's policy of funding incremental actions to the maximum extent possible, initially, because funds may not be available for the project in

the following years. Also, we believe that the contract should not have been let until a host utility had agreed to participate in the program. An EPA official advised us on July 8, 1980, that a decision is to be made by September 1, 1980, on accepting a proposed host utility.

The EPA official advised us that EPA will follow our suggestion that there should be an agreement with the host utility in a follow-on project before awarding a contract for a similar study.

Price negotations after contract award

Negotiation of prices after contract award under fixed-priced contracts reduces a contractor's risk, since the contract is in effect a cost reimbursement contract until the fixed price is agreed upon. In a cost reimbursement situation there is less incentive for contractors to be efficient. The same holds true for subcontractors. We found instances where an agency may be more concerned about entering into contractual agreements to spend excess funds at year-end than it was about negotiating contract prices promptly and thereby prevent possible cost inefficiencies. For example, at HUD lengthy delays occurred in negotiating cost reimbursement task orders with a subcontractor under section 8(a) of the Small Business Act. Examples of delayed negotiation of task order costs follow.

--HUD issued a task order as a letter contract to a subcontractor on September 29, 1978, with a cost limitation of $20,000. The subcontractor was to develop a national public information program to increase public awareness of selected HUD/Federal Housing Administration homeownership assistance programs. The procurement request was received on September 28, 1978. The subcontractor's proposal was received on May 27, 1979, and the costs of $37,966 were negotiated the same day, almost 8 months after issuance of the task order. The initial obligation of $20,000 was increased an additional $17,966 on December 6, 1979, the date the contracting officer signed the modification, or in fiscal year 1980.

--HUD issued a task order as a letter contract to a subcontractor on September 25, 1978, with a cost limitation of $275,000 to implement HUD's national communication program. The procurement request was issued September 6, 1978, with work to be completed by February 28, 1979. The work was completed in

July 1979, but no cost proposal had been received by the contract specialist by November 29, 1979. In answer to our inquiry on July 14, 1980, we were informed that the cost proposal has since been received by HUD.

Inadequate work statements or specifications

Inadequate work statements for goods and services because of the rush to award contracts or grants to use excess funds at year-end may result in increased costs or inadequate products being obtained. An example follows.

--HUD awarded a cost reimbursement prime contract for $475,000 to SBA under section 8(a) of the Small Business Act on September 27, 1978, for creation of a long-term urban clearinghouse system which would include the responsibility of publishing the HUD Technical Assistance Clearinghouse Report. The procurement request with the statement of work was issued on August 14, 1978. However, a revision to the work statement, with estimated additional costs of $180,000, was issued on September 29, 1978. Another revised work statement, that was issued on September 5, 1979, totally replaced the previous two. In an enclosure transmitting the second revision of the statement of work to the selected subcontractor on September 21, 1979, the following reasons were given for the change. HUD had envisioned the immediate development and implementation of a national clearinghouse to provide information on technical assistance. It was decided that this approach was premature. Instead, a conceptual or feasibility study on the need of a national clearinghouse was first deemed necessary in order to form a solid basis for the implementation of a clearinghouse.

Impact of year-end spending on procurement personnel

Excessive year-end spending places a heavy workload on understaffed procurement offices and adversely affects the morale of the staff. HUD officials stated that their procurement office is understaffed and that heavy workloads leave contract specialists little time for contract administration. A BIA official in the Alburquerque area office said that procurement personnel are literally chained to their desks writing purchase orders at year-end. A BOM official cited the

year-end spending rush as the reason no vacations are allowed during September, and this has lowered morale.

The following figures show overtime hours by quarters for some of the activities we visited. Complete and comparable overtime data for fiscal years 1978 and 1979 were not available.

Overtime Hours Incurred by Certain Activities

	Quarters				
	1st	2d	3d	4th	Total
BIA:					
1979	0	45	283	730	1,058
EPA's Research Triangle Park:					
1978	44	35	84	726	889
1979	60	18	15	181	274
NIH:					
1979	3,316	4,698	5,294	5,273	18,581
SSA:					
1978	338	915	1,018	2,164	4,435
1979	400	912	616	1,821	3,749

NIH procurement branch officials stated that overtime is used rather extensively because of a general shortage of personnel. At OE most of the grant and procurement personnel worked weekends during the final quarter of the fiscal year. During September 1979, they worked 1,665 overtime hours at a cost of $17,726. This overtime was caused by the abnormal workload placed on the procurement personnel. The grants personnel were required to process and award 1,650 grants during September 1979. This is over 700 more than normal monthly workload.

The following figures illustrate the September workload of several agencies for fiscal years 1978 and 1979.

September Procurement Action Workload
at Certain Procurement Offices

	1978			1979		
	Number of Sept. actions	Percent of annual total actions	Dollars (millions)	Number of Sept. actions	Percent of annual total actions	Dollars (millions)
EPA:						
Agencywide contracts	750	26.5	$ 94.9	777	27.4	$ 93.5
Grants	1,237	17.7	1,056.5	1,730	20.8	1,722.4
Research Triangle Park contracts	254	28.8	35.9	239	26.7	24.4
Department of the Interior:						
BOM-Denver procurement office	140	14.8	11.9	190	18.4	9.7

In an analysis of 632 grants awarded by EPA during August and September 1978, we found that 61 of the grants were received, processed, and awarded in the last 3 days of the fiscal year. Another 190 of the 632 grants were handled and awarded in less than 30 days. These abnormal workloads generally force the procurement personnel to compress or shortcut the procurement process.

With the short time to process procurement requests into awards, procurement offices take shortcuts in negotiation, review of pricing proposals, preaward surveys, and preparation of various documentation required. (See app. IV for a summary of shortcuts taken.)

Negotiations with the contractors and verification of overhead rates and other information on contractors are often done by telephone with audit and contract administrative agencies. For example, at HUD we found that a subcontractor's cost proposal for a task order to a subcontract under section 8(a) of the Small Business Act was received, reviewed, and negotiated on the same day. The subcontractor's cost proposal was accepted as submitted except for an adjustment of the contract fee.

CONCLUSIONS

Overall, there was a reduction in year-end spending by the 16 civilian agencies in fiscal year 1979 from that in fiscal year 1978. However, several departments and agencies continue to have uncontrolled year-end spending and September surges.

There are numerous causes of year-end spending, and some could be in the best interest of the Government. These include lengthy contract negotiations; reimbursements fixed by law under social programs; unexpected opportunities to realize savings; and changes in priorities, national policy, or emergencies.

The rationales offered by agency personnel for year-end spending that may have an adverse impact on procurement effectiveness are (1) the lack of an effective advance procurement planning system, (2) the philosophy that all available funds must be spent before the end of the fiscal year, (3) the perception that a manager's performance is evaluated, in part, on spending ability, and (4) the appropriation and budget processing delays.

Sources of year-end funds come from holdbacks or contingency reserves; reprograming of funds; restrictions on budgeting for pay increases; and deobligation of improperly obligated funds.

Departments and agencies employ several techniques to obligate these funds in order to prevent them from lapsing or being reprogramed. These include sole-source contracts, contract modifications, incremental funding of contracts, small business section 8(a) contracts, and bypassment of normal procurement processing procedures.

Year-end spending does not always produce negative results. However, when contracts and grants are hurriedly awarded at year's end by bypassing normal procurement procedures and ignoring laws and regulations, the protection of the Government's interests suffer. These shortcut techniques can often produce abbreviated or delayed negotiations; limited reviews of cost proposals; inadequate work statements; procurement of unneeded equipment, products, and services; improper or illegal obligations; and a workload which requires overtime pay and has an adverse impact on employee morale. The overall effect of rushed year-end spending is that the Government does not achieve the most economical, efficient, and effective purchases its procurement system was designed to obtain.

RECOMMENDATIONS

The following recommendations are made specifically for those departments and agencies covered by our review and also for consideration by all other departments and agencies with problems of year-end spending surges.

The Secretaries of the Departments of HHS (formerly HEW), HUD, the Interior, and ED and the Administrator of EPA should direct their budgeting, programing, and procurement offices to develop or improve

--an advance procurement planning system tied in with the budgetary and apportionment system,

--a system for monitoring the procurement planning system including the holdback of contingency reserves,

--the agencies' obligation reporting system to provide timely and reliable reporting of obligation, and

--a system to check that all required documentation is prepared and required procurement procedures are followed.

These officials should (1) specify that performance of their program and procurement managers will be evaluated on quality of procurement rather than on the ability to spend funds and (2) eliminate the practice of spending all available funds--1-year, multiyear, and no-year funds--by the end of the year.

Where there is a reasonable basis to expect that priority items will be approved by the Congress, we recommend that the program offices initiate procurement requests in such programs before appropriations are approved and even before the start of the fiscal year. The procurement request could be processed up to the point of requesting bids.

The Director of OMB should insure that all agencies set up advance procurement planning systems along with other management controls to curtail year-end spending surges.

In addition, we recommend the department and agency heads set up a system to insure that

--binding agreements support obligations,

--procurement of goods and services are obtained only if a bonafide need exists in the year purchased, and

--the practice of making awards under section 8(a) of the Small Business Act before a subcontractor is identified and ready to receive an award is not used to prolong availability of annual funds.

CHAPTER 3

AGENCY OFFICIALS' ACTIONS AND SUGGESTIONS ON YEAR-END SPENDING SURGES

AGENCIES' ACTIONS TO CURTAIL YEAR-END SPENDING SURGES

Agencies are reacting to the increasing concern about year-end spending surges. Congressional and Presidential interest are major factors giving impetus to agencies to take corrective action. Enlightened management has also become concerned about the adverse impact of year-end spending surges on the quality of procurement and the operations of their procurement organizations. Discussions of agencies' actions to curtail year-end spending follow.

EPA

EPA identified a trend toward increased year-end spending as a significant problem at the end of fiscal year 1975. Among the concerns were that (1) nonessential goods and services were procured, (2) spending was probably motivated by a desire to substantiate a funding level for subsequent fiscal years, (3) contracting staffs' time and workload were poorly balanced, (4) friction was occurring between the contracting staff and program offices, (5) quality of their contracts was not being maintained, and (6) important environmental program goals were not being met.

EPA established a contract planning system in the second quarter of fiscal year 1976 which requires program offices to (1) prepare plans identifying upcoming procurements for the fiscal year prior to submission of the procurement request and (2) submit procurements in accordance with a plan and prior to established cutoff dates. The system includes: (1) preparation of the contract plans by major program levels, (2) review of the plans by contract staff to assure completeness and accuracy of the data, (3) assignment of contract specialists to specific programs, (4) submission of procurement requests representing at least 85 percent of the total funds available for contracts prior to April 30, (5) preparation of a quarterly graphic analysis for management showing planned and actual procurement submissions by quarter, (6) encouragement of early submission of procurement requests for high priority programs, and (7) monthly comparisons between the available funding for contracts and the value of the current contract plan.

As a result of the new procedures, the proportion of the workload processed by the procurement office in the fiscal year 1979 fourth quarter has been reduced about two-thirds from that in the same period in fiscal year 1975. This improvement is even more significant because the procurement office was assigned additional programs involving increased expenditures. However, EPA still needs to further even out its fiscal year spending, since during August and September 1979 it spent 42 percent of its total fiscal year obligations, with 36 percent of total fiscal year obligations being spent in September.

One of the reasons advanced by EPA officials for the high year-end spending surges was the practice of States to wait almost to the end of the 2-year reallocation period before applying for grants under the waste water construction program. However, obligations by object classes shows a significant September 1979 surge in the procurement of goods, services, equipment, land, and structures in additional grants. The procurements in these object classes are normally by contracts or purchase orders.

HEW

HEW (now HHS) issued a memorandum on February 19, 1980, restricting primary operating components such as SSA and the Public Health Service to spending no more than 30 percent of their procurement budget for new contracts and modifications during the fourth quarter of the fiscal year. Also, no more than 12 percent of the budget could be spent during any month in the fourth quarter. SSA division officials said that implementation of this memorandum would require much more sophisticated advanced planning than was necessary in the past.

HHS officials indicated that there should be no legal requirement to restrict spending during the last 2 months of the fiscal year. They believed that the head of the department should have the administrative flexibility to impose any ceiling or other controls to curtail year-end spending where surges continue. At HHS, spending is limited to 30 percent of total fiscal year expenditures during the fourth quarter of the fiscal year. In addition, they stated that other steps are being taken to smooth out spending. The Assistant Secretary of Management and Budget stated that they agree with our draft report and are doing everything that we suggested.

HUD

The Deputy Assistant Secretary for Administration advised us that HUD had not established any formal procedures or controls for limiting year-end spending. Instead, during the latter part of fiscal years 1978 and 1979, a memorandum was distributed to principal staff reminding them to avoid unnecessary obligations. The fiscal year 1978 memorandum included the President's guidelines for controlling year-end spending. The fiscal year 1979 memorandum contained only a brief reminder to limit procurements to those necessary to meet legitimate program needs without enclosing or commenting on guidelines from the OMB Director on limiting year-end buying. As shown on page 5 the September 1978 surge rate of 956 percent was reduced to 317 percent. The September obligations to total fiscal year obligations were reduced from 49 percent in 1978 to 27 percent in 1979.

Department of the Interior

Agency field officials stated that they were against unnecessary year-end spending and usually operate under departmental restrictions that call for limiting spending to absolute necessities. BIA, for example, issued directives instituting a BIA-wide cutoff of August 31 for purchases of goods and services except for necessary services such as utilities, car rentals, and financing day-to-day operations. Yet, as shown on page 13 we found that BIA has been reprograming millions during the last 2 months of the fiscal years 1978 and 1979.

A Department of the Interior official advised us that there has been a requirement since 1976 for its bureaus to have advance procurement plans, but as yet no department or bureau has fully implemented these plans. The Department of the Interior has awarded a contract to (1) design a procurement planning system, (2) evaluate the implementation system, and (3) suggest any improvements.

ED

As previously stated, OE of HEW became ED on May 4, 1980. Since the report includes examples of year-end spending attributable to OE, we believe that similar situations will occur unless steps are taken to curtail year-end spending. A GPMD official advised us that they agreed with our comments, conclusions, and recommendations that applied to ED. He stated further that the then OE had proper advance plans for awarding grants, but that the program offices often did not meet the plans' time constraints, and, therefore, the grant awarding slipped, sometimes to the end of the year.

The official also outlined procedures to effect corrective action. However, this will take time. Some of the actions being taken are (1) peer review of work statements, (2) award continuation grants early in the fiscal year, and (3) close out of about 5,000 completed contracts by the cost and price analysis group. We were also furnished an outline of actions to be taken to comply with the OMB directive of July 2, 1980, pertaining to awarding of consulting service contracts.

AGENCY OFFICIALS' SUGGESTIONS ON CURTAILING YEAR-END SPENDING

Agency officials' suggestions on curtailing year-end spending surges either offered little or no hope for improving the situation or had some worthwhile suggestions for consideration. Also, some agency officials believed that surges in year-end spending were either normal, at a reasonable level, or not considered a problem.

The reasons given for offering little hope for curtailing year-end spending surges were: (1) involvement in the appropriation and budget process, since program offices are busy preparing and defending their budget requests during the early part of the fiscal year so processing of procurement requests cannot start until spring and (2) agencies, operating under a continuing funding resolution, cannot start new projects, and submission of procurement requests for such projects are delayed. One agency official disagreed that late approval of appropriations and the related budgetary processes were responsible for year-end surges. He believed the surges occur whether the appropriation is approved before or after the start of a new fiscal year. He also believed that planning could go forward before appropriations are approved. He stated that about 75 percent of his agency's program is fairly certain before the appropriations are approved.

Other suggestions on curtailing year-end spending surges that we received were: appropriations should be on a no-year basis and that there should be no expectation that no-year funds must be obligated by the end of the year. One agency official advocated the use of a spending limitation during the last 2 months of the fiscal year.

Involvement in the appropriation and budget process

A HUD procurement official stated that program offices must prepare and defend their budget requests during the early part of the fiscal year. Therefore, they cannot begin

processing many procurement requests until spring. Since it takes several months to process competitive procurements which make up about 50 percent of HUD's new contract actions, the official concluded that many of the awards are not made until the end of the year, even when procurement requests were submitted on time.

Other agencies did not express the same problem. We believe that a comprehensive advance procurement planning system, well documented and tied in with the budgetary system, should help make it easier to justify spending programs.

Continuing funding resolutions prevent new project starts

A Federal Railroad Administration (FRA) representative felt that operating under a continuing funding resolution prevents starting new projects and delays submission of procurement requests. However, a National Highway Traffic Safety Administration (NHTSA) budget official believed it was unacceptable to think that planning cannot go forward before appropriations are approved. He also felt that 75 to 80 percent of his agency's research program was known before the appropriation was approved.

We believe that there is no logical reason why an agency cannot initiate a procurement request and process it to the point of requesting bids while waiting for appropriation approval. The process could start before the fiscal year begins.

Appropriations should be approved on a no-year basis

Agencies make every attempt possible to spend all available funds at year-end, whether involving annual, multiyear, or no-year funds. (See p. 10.) The suggestion that appropriations should be approved on a no-year basis would not help curtail year-end spending surges unless agency officials make it clear that they would not penalize conscientious program and contracting representatives for not spending all available funds by year-end.

Spending limitation in last 2 months of fiscal year

Only 8 of the 16 civilian agencies covered in our review spent 20 percent or less of their total fiscal year outlay during August and September 1978 and only 9 in fiscal year

1979. This indicates that the other agencies must make significant changes in their spending patterns to achieve the goal of a 20-percent limitation on expenditures in the last 2 months of the fiscal year as has been proposed in H.R. 7287.

In hearings before the House Subcommittee on Legislation and National Security, Committee on Government Operations, on March 25, 1980, we stated that generally, we do not favor these types of limitations because they are difficult to administer and address a symptom rather than correcting underlying management problems. In this case, however, we supported legislative action as a means of getting a handle on the basic problem. As reported earlier (PAD-80-5, Nov. 21, 1979), we believe the underlying problem is that, over the years, the agencies and OMB have not given high priority to monitoring and managing the execution of the budget.

In the absence of a carefully developed plan and carefully monitored agency spending, the surge in spending could occur at an earlier date. The limitation of 20 percent in the last 2 months will still allow considerable flexibility for variations among programs. Where an agency has several principal operating components and also has large appropriations, there can be a great deal of latitude in spending patterns by these operating components, even though overall the agency may be within the 2-month spending limitation.

For example, in fiscal year 1979, the Department of the Interior spent departmentwide, 23 percent of its total annual expenditures in the last 2 months. Yet the Fish and Wildlife Service spent 31 percent during this period. In September 1979 Interior spent 15 percent of fiscal year total expenditures while the Bureau of Land Management and National Park Service each spent 18 percent and the Fish and Wildlife Service spent 19 percent during the same month.

The Congress has created a mechanism--the apportionment process--which was intended to be a primary means for monitoring and controlling the efficient and effective use of funds. The law, generally known as the Anti-Deficiency Act (31 U.S.C. 665), gives OMB the responsibility and authority to manage budget execution through the apportionment process. Thus, we believe that the apportionment process is the appropriate vehicle for administering any limitation on year-end spending.

Other actions that must be taken to curtail year-end spending surges include establishing advance procurement planning systems and applying internal review to check for compliance with policies on year-end spending.

CONCLUSIONS

Agencies are becoming increasingly concerned about year-end spending surges, apparently due to congressional and Presidential interest. We found that (1) EPA has a comprehensive advance procurement planning system, (2) HHS and the Department of the Interior are implementing a procurement planning system, and (3) HUD has no formal procurement planning system. From tables in appendix III and previous discussions, we believe that certain agencies must take action to sharpen their management tools to curtail year-end spending.

The reasons some agencies believe that there is little or no hope for curtailing year-end spending surges are: (1) the involvement of program offices in the appropriation and budget process into the second quarter of the fiscal year limits their capability to orderly process current year requirements and (2) the operation of the agency under continuing funding resolutions which inhibits their ability to initiate new projects.

We believe the above problems could be minimized or eliminated with an effective advance procurement planning system and other management controls as outlined in chapter 2. We also believe that appropriating funds on a no-year basis would not curtail the year-end spending surges as long as program and procurement managers believe they must spend all available funds or lose them to other programs.

Even though we believe that agencies are making some attempts to comply with the spirit and intent of the OMB August 7, 1979, directive, this report shows many instances of noncompliance.

We support a limit on year-end spending of all agencies as proposed in H.R. 7287. In spite of reservations about such limitations, we support the temporary use of this limit to help control year-end spending itself and strengthen the budget execution and procurement process. Accompanying this limitation and the increased emphasis by OMB on the apportionment process, there must be an effective advance procurement planning system along with other management controls to even out the workload and to ensure procurement of quality goods and services. We also believe that a provision should be made for OMB to allow exceptions to the spending limitations under certain conditions.

RECOMMENDATIONS

We recommend that the Secretaries of HHS, HUD, the Interior, and the Administrator of EPA determine the causes for the continued high year-end spending surges and take action to smooth out their department's or agency's spending patterns.

We also recommend that the Secretary of HUD develop and implement a formal advance procurement planning system, while the Secretary of the Interior should expedite the implementation of its system.

CHAPTER 4

HEW CONSULTING SERVICES

During the fourth quarter of the fiscal year 1978, HEW spent $110.7 million, or 66 percent, of the annual expenditures of $169 million for consulting services. In the fourth quarter of fiscal year 1979, HEW spent $88.5 million, or 66 percent, of the annual expenditures of $134.9 million for consulting services. Although there was no improvement in the percentages for fourth quarter spending, the yearly totals decreased somewhat due to legislated ceilings imposed on total HEW consulting service spending. Continued awarding of a large number of consulting services contracts in the final quarter of the fiscal year could result in improper awards, poorly documented files due to the high workload on program offices and contract specialists, and the purchase of duplicate or unneeded consulting services.

In this review of HEW consulting services we focused on the Office of the Secretary, OE, and the National Institute of Education (NIE) because of large expenditures for consulting services, substantial year-end surges, and the need to check a smaller activity's procurements of such services. Interviews were conducted and contracts examined at the Washington, D.C., offices of these activities. We examined only the increase in consulting services spending during the last quarter of the fiscal year. We did not examine the overall consulting services spending needs for HEW. For more information on agency requirements for consulting services spending and the issues of sole-source awards versus competitive awards and the agency in-house capability versus agency contracting out procedures see our previous report on consulting services contracts. 1/

OMB GUIDELINES AND DEFINITION OF CONSULTING SERVICES

OMB published Circular No. A-120 on April 14, 1980, which superceded OMB Bulletin 78-11, dated May 5, 1978, to give guidelines to Federal agencies for the use of consulting services. There had been confusion by Federal agencies over what constituted a consulting service. OMB has defined consulting services as

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1/"Controls Over Consulting Service Contracts at Federal Agencies Need Tightening," (PSAD-80-35, Mar. 8, 1980).

"* * * those services of a purely advisory nature relating to the governmental functions of agency administration and management, and agency program management. These services are normally provided by persons and/or organizations who are generally considered to have knowledge and special abilities that are not generally available within the agency * * *."

The OMB circular also states that work performed will not be (1) of a policy, decisionmaking, or managerial nature, which is the direct responsibility of agency officials, (2) on an intermittent or temporary basis, and (3) used to bypass personnel ceilings, pay limitations, or competitive employment procedures. OMB also directed that grants and cooperative agreements not be used as legal instruments for consulting service arrangements.

Management controls

OMB Circular No. A-120 has also established management controls over the use of consulting services. The circular requires that Federal agencies ensure, among other things, the following:

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

--Work statements are to be specific, complete, and specify a fixed period of performance for the service.

--Contracts for consulting services are to be competitively awarded to the maximum extent practicable to ensure that costs are reasonable.

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

--Consulting services arrangements must be properly administered and monitored to ensure that performance is satisfactory.

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

Use of consulting services

HEW uses consultants and consulting services contracts for (1) support in solving internal organization deficiencies involving areas of technical assistance, management and information systems, employee development, and training, (2) services in support of external HEW programs and funded organizations, (3) services in connection with surveys to improve present management systems and identifying problem areas, and (4) services in performing program evaluation studies. HEW has three methods available to them for acquiring consulting services. They are procurement contracts, personnel appointments, and advisory committee memberships. We did not review advisory committee services because they had minimal impact on consulting services spending.

Areas of concern

Proper controls must exist in the initiating, awarding, and servicing of consulting services contracts by the program and contracting offices to prevent abuses stated below. Also, management controls must continue after the contract is awarded to ensure proper contract administration and a final audit of the end product, including the use of the product in meeting agency needs. Other areas of concern include the following:

--Year-end consulting services spending for unneeded services.

--The inefficient, ineffective, and improper monitoring and evaluating of consulting services contracts by the HEW program and contracting personnel due to large workloads imposed by the year-end spending surges.

HEW year-end consulting services spending and reporting requirements

The Congress imposed on HEW a consulting services spending ceiling of $194 million for fiscal year 1979 and further reduced this ceiling to $170 million for fiscal year 1980. The amount spent for consulting services in fiscal years 1978 and 1979 is shown below.

HEW Consulting Services Obligations

Quarter	Fiscal year 1978 Amount	Fiscal year 1978 Percent	Fiscal year 1979 Amount	Fiscal year 1979 Percent
1st	$ 6.6	3	$ 8.2	6
2d	31.5	19	14.8	11
3d	20.2	12	23.4	17
4th	110.7	66	88.5	66
Total	$169.0	100	$134.9	100

Consulting services spending also includes amounts spent for appointive consultants. 1/ In fiscal year 1978 the total amount spent for appointive consultants was about $3.8 million. (See p. 46.) In fiscal year 1979, HEW reported spending $12.24 million for appointive services, an increase of $8.4 million (325 percent) from fiscal year 1978. Agency officials advised us that about two-thirds, or $5.7 million, of this increase was due to legislative authority for NIH to hire experts. However, no monthly breakout was available for appointive consultant spending. A possible explanation for part of this large increase in appointive consultant spending is the personnel ceiling imposed by the Congress that temporarily reduced the HEW personnel ceiling from 143,644 in fiscal year 1978 to 142,989 in 1979.

OMB Circular No. A-120 requires Federal agencies to provide information on procurement contracts for consulting services to FPDC. However, the HEW data reported to FPDC as of March 24, 1980, was incomplete since it reported

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1/Appointive consultants are those consultants obtained by personnel appointment and usually are appointed for a not-to-exceed 1-year period and work intermittently as needed.

spending only $68.1 million for consulting services in fiscal year 1979. HEW apparently spent about $134.9 million for consulting services in fiscal year 1979. Agency officials stated the main reason for this reporting difference is the narrower OMB definition of consulting services being used when reporting to FPDC.

Justification for increased consulting services spending

HEW stated that the increased spending for appointive consultants was due partially to Schedule C appointees being brought onboard pending confirmation of their Schedule C position (noncareer appointment). We were also told that consulting services spending increased in fiscal years 1978 and 1979 because of legislative actions. Some legislation authorizes agencies to hire special experts. NIH was given this authority under the National Cancer Act of 1971 (P.L. 92-218) and the National Heart, Blood Vessel, Lung, and Blood Act of 1972 (P.L. 92-423). HEW stated as a result of these two public laws, NIH spent almost half of the total HEW expenditures for appointive consultants in fiscal year 1978. We were told that these programs, along with the Community Mental Health Centers Extension Act of 1978 (P.L. 95-622) have caused the Public Health Service's fiscal year 1979 appointive consulting spending to rise even higher. The newly authorized special experts hired by NIH were exempt from the 90-percent ceiling on expenditures in fiscal year 1979 that was imposed by the Under Secretary of HEW in his memorandum dated January 8, 1979.

We think that the justification for the large number of HEW year-end consulting services awards is not satisfactory because final quarter awards may be based on the agency's lowest priorities and may not directly apply to meeting urgent agency needs. Also, awards processed at year-end lack some documentation required by regulations due to shortcuts taken to obligate funds by the end of the fiscal year.

Appointive consulting spending pattern

During fiscal year 1979, NIE obligated $133,000 for 52 appointive consultants. We screened 45 of these NIE appointive consultant files and examined 10 files indepth. Eight of the 10 consultants were appointed in the last 2 months of fiscal year 1979. There was little documentation

of why most of the work could not be done in-house or why some of these appointees were selected for renewed appointments.

Some examples of problems found in the review of appointive consultants are as follows.

--At NIE a consultant brought onboard via a personnel action was a retired employee who was rehired as a consultant to do his old job at the rate of $154 per day. Originally, he was hired for about 40 days work, but he worked the entire year. His retirement pay plus his daily consultant pay far exceeded his preretirement pay for the same job.

--Many consultants were rehired for several consecutive years with no justification given for rehire after the initial hire. This is not consistent with OMB Circular No. A-120 which requires a fixed period of performance for this service. (See p. 42.) For example, one consultant being paid $109 per day has been a consultant for NIE since December 15, 1977. This consultant was given another 1-year appointment on September 5, 1979, with no further justification for consultant use.

During fiscal year 1978, HEW reported $3.8 million for appointive consultants. Of this amount, $1.3 million, or 33.6 percent, was obligated in the final quarter--an increase of 75 percent over third quarter spending. The following chart shows spending by quarters for appointive consultants in fiscal year 1978.

HEW Appointive Consultant Spending

Quarter	Fiscal year 1978 Amount	Percent
	(000 omitted)	
1st	$ 424	11.2
2d	1,361	36.0
3d	724	19.2
4th	1,269	33.6
Total	$3,778	100.0

In fiscal year 1979, HEW spent $12.2 million for appointive consultants, with $6.6 million being spent by NIH. (See p. 44 for the reason for the increase.)

Fourth quarter consulting services contract awards continue at a high rate

The fourth quarter spending for consulting services was the same--66 percent of total fiscal year expenditures in fiscal years 1978 and 1979. (See fig. on p. 44.) Some examples of last quarter spending and the associated problems caused by final quarter surge spending are as follows.

--An Office of the Secretary contract for $15,904 was awarded on September 7, 1979, for evaluating elementary and secondary education. HEW evaluators 1/ believed that this sole-source, firm-fixed-price contract duplicated past efforts. The contract was negotiated over the telephone, and the contractor's proposed price was accepted with no documentation or cost analysis.

--OE awarded a contract for $36,828 on September 29, 1978. This was a rushed noncompetitive contract for guidelines to review vocational training programs. The justification given for the quick award was the need for the guidelines by September 30, 1978. Since the award was made just prior to the requested delivery date and the contract was then extended for 11 months to August 31, 1979, there appeared to be no need for a hurried-up award.

Additional examples are included in appendix V.

HEW plans for improving consulting services spending patterns

On February 19, 1980, the HEW Undersecretary issued agencywide instructions to curtail final fiscal year quarter spending to a ceiling of 30 percent of fiscal year outlays. (See p. 34.) Also, the Assistant Secretary for Management and Budget has directed his Office of Management,

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1/An agency employee or an outside expert hired to evaluate proposals.

Analysis, and Systems to monitor and review consulting services contracts in excess of $100,000. This office plans to track some of these contracts through completion and examine the usefulness of the final product. The Assistant Secretary, however, retains final approval authority for all of these contracts.

Additionally, HEW issued a directive on June 21, 1979, to establish controls for the reporting on and accounting for the use of appointive consultants. Finally, on March 24, 1980, the Assistant Secretary for Management and Budget issued a memorandum on improprieties brought out by our previous report. 1/ He directed GPMD to take immediate action to document all consulting services contract files and to maximize competition in the awarding of consulting services contracts. He also directed that determinations and findings for consulting services contracts should only be signed by the contracting officer. This memorandum also contains further courses of action to remedy deficiencies mentioned in our report.

CONCLUSIONS

We believe that the use of consulting services can be an effective tool to help improve Federal agencies' services and operations. However, our review disclosed that there were still major problems in the justification of year-end spending in this area. Some of these problems can be linked directly to the apparent rush to spend all available moneys by the end of the fiscal year. HEW has shown no improvement from fiscal years 1978 to 1979 in the percentage of year-end spending for consulting services in the fourth quarter. However, total dollar spending was reduced in fiscal year 1979 by the congressionally imposed ceiling on consulting services. If the management controls directed by OMB Circular No. A-120 and the associated HEW memorandums are properly implemented, we believe consulting services spending patterns will be improved and progress toward the goal of purchasing only those consulting services required to meet mission needs will be met. In our June 5, 1980, report, 2/

1/PSAD-80-35, Mar. 20, 1980.

2/FPCD-80-48, June 5, 1980.

we recommended that OMB ensure that agencies establish effective procedures to fully implement the prescribed management controls in the new circular.

RECOMMENDATIONS

To improve their department's consulting services spending patterns, we recommend that the Secretaries of ED and HHS should

--continue to review consulting services spending procedures and

--fully implement the data reporting and other requirements directed by OMB Circular No. A-120.

CHAPTER 5

FOLLOWUP ON OUR PREVIOUS REPORT ON CONTRACTING FOR R&D

There remains much to be done by Federal agencies to correct their past practices of awarding a large number of R&D contracts at year's end and of not evaluating the products of these contracts. In our previous report, 1/ a majority of contracts were awarded in the last month of fiscal year 1975, and the products of these contracts were not properly evaluated. We recommended that the agencies develop annual procurement plans which would distribute contract awards for their projects throughout the fiscal year, and, very importantly, they develop and use a system to determine what value was received from the R&D funds spent.

REDUCTIONS IN YEAR-END AWARDS

We performed our followup review at MarAd, EPA, and the following components of the Department of Transportation: Federal Aviation Administration (FAA), NHTSA, FRA, and the Office of the Secretary of Transportation (OST).

We reviewed these agencies' contracts over $100,000 and awarded during the last months of fiscal years 1978 and 1979. Also, we determined if the agencies had developed and were implementing procedures to properly evaluate the products of R&D contracts.

Most of the agencies have made progress since fiscal year 1975 in reducing the proportion of year-end contract awards. Still, contracts awarded during the last month of fiscal years 1978 and 1979 represented a significant portion of the fiscal year total.

Awarding a large number of contracts at the end of the fiscal year suggests poor planning and implies that funds are obligated to prevent them from lapsing or to avoid

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1/"Federal Agencies' Contracting For Research And Development In The Private, Profitmaking Sector," (PSAD-77-66, Mar. 24, 1977).

reductions in future appropriations. While agencies have taken measures to control year-end spending, more needs to be done.

MarAd

MarAd has no procurement office, and its R&D contracts are awarded by the Department of Commerce's centralized procurement office. Although there has been a reduction in year-end contract awards, they continue to be very high.

R&D Contract Awards Over $100,000

	Fiscal year		
	1975	1978	1979
Number of contracts awarded	26	26	23
Percent in last month	73	77	65
Initial value of contracts awarded (thousands)	$5,954	$4,722	$5,315
Percent in last month	83	72	57

Measures taken to control year-end spending

For several years, the Assistant Secretary for Administration, Department of Commerce, has established cutoff dates for submission of procurement requests that require contract award by year-end. The dates are June 1 for contracts of $100,000 or more and July 1 for those under $100,000.

The Department of Commerce is developing a procurement planning system that should help even out procurements. The system will be tied to the budget system and will include automated tracking, a procurement management committee, and the setting of procurement processing milestones. A Commerce official stated that initially the procurement planning system will concentrate, because of the high dollar expenditures, on automatic data processing requirements for a 6-year period. Contract information is to be set up in the computer system, and procurement plans may be published. The Deputy Director of Procurement, Department of Commerce, believes that 2 or 3 years will be needed to fully implement the system and achieve significant improvement.

In order to decrease the leadtime for R&D awards, MarAd officials are considering the implementation of part of the shipbuilding and ship operating program under the Federal Grants and Cooperative Agreements Act of 1977 (P.L. 95-224). If the program qualifies for coverage under the act, a Grants and Cooperative Agreements Office would be established in MarAd. The agency would then be able to fund directly many of its R&D projects, thereby avoiding the centralized procurement office.

The Deputy Assistant Administrator for Commercial Development told us that a significant reason for the large number of year-end R&D awards is the delay in processing awards by the centralized procurement office at the Department of Commerce. He said MarAd has no control over contract awards after the projects are submitted to the procurement office.

EPA

EPA has made progress in reducing the relative number of year-end contract awards, but they continue to be substantial. The total value of contract awards increased significantly since fiscal year 1975.

R&D Contract Awards Over $100,000

	Fiscal year		
	1975	1978	1979
Number of contracts awarded	38	178	155
Percent in last month	68	38	40
Initial value of contracts awarded (thousands)	$14,628	$56,262	$60,844
Percent in last month	58	48	38

Measures taken to control year-end spending

In chapter 3, under agencies' actions to curtail year-end spending, we discussed EPA's Contract Planning System which became operational during fiscal year 1976. We believe that EPA still needs to further even out its fiscal year spending, since in August and September of fiscal year 1979 it spent 42 percent of its total fiscal year obligations, with 36 percent of the total fiscal year obligations being spent in September.

FAA

FAA has also made progress in reducing the surge in year-end procurements, although the surge is still significant.

R&D Contract Awards Over $100,000

	Fiscal year		
	1975	1978	1979
Number of contracts awarded	7	9	15
Percent in last month	43	44	33
Initial value of contracts awarded (thousands)	$4,149	$2,011	$4,733
Percent in last month	46	33	22

Measures taken to control year-end spending

In November 1977 the FAA Administrator issued an order setting forth year-end obligation policy. The order reemphasized the need to accomplish approved programs in an orderly manner, to phase procurement schedules to meet program requirements, and to constrain unwarranted year-end buying.

FAA officials told us that the surge in year-end spending is caused by the appropriation/budgetary process. Late approval of appropriations by the Congress results in agencies not knowing the size of their budgets until November or December, so agencies submit very few procurement requests during the first quarter of the fiscal year. Further, with the normal procurement leadtime of 6 to 9 months, it is difficult to award many contracts before the last quarter of the fiscal year.

We disagree with the FAA contention that because of the lengthy procurement leadtime, it is difficult to award many contracts before the last quarter of the fiscal year. Better procurement planning would help alleviate the problem. Also, we are recommending in chapter 2 that under certain conditions procurement requests be initiated even before the start of the fiscal year and that these requests be processed up to the point of requesting bids.

NHTSA

At NHTSA there has also been a reduction in year-end contract awards, but they continue to be relatively significant.

R&D Contract Awards Over $100,000

	Fiscal year		
	1975	1978	1979
Number of contracts awarded	30	21	15
Percent in last month	63	28	33
Initial value of contracts awarded (thousands)	$5,810	$3,909	$4,240
Percent in last month	56	36	31

Measures taken to control year-end spending

NHTSA has issued two master plans which are designed to aid long-range procurement. The plans set forth the research goals for both rulemaking and highway safety over a 5-year period. The plans also set priorities and help resolve in advance most disputes over the direction and purpose of a research project. The Associate Administrator for Administration believes that the plans are beginning to affect fiscal year 1980 procurements, but that some time will be required to reduce the year-end spending crunch. As ongoing projects are completed and their results incorporated in the master plans, NHTSA expects to have more control over the timing of new R&D contract awards.

The Director, Office of Contracts and Procurement, told us that the major reason for year-end surges in procurement is the excessive time, sometimes as much as 6 months, required for research proposers and the users of the end product to agree on a project before it reaches the procurement office.

FRA

FRA has substantially reduced the relative significance of year-end contract awards.

R&D Contract Awards Over $100,000

	Fiscal year		
	1975	1978	1979
Number of contracts awarded	8	11	3
Percent in last month	63	36	33
Initial value of contracts awarded (thousands)	$4,471	$3,217	$732
Percent in last month	83	68	15

The Director of Procurement told us that no special steps have been taken to control year-end spending, because it is not considered a problem. He believes the surge in year-end obligations is a result of the normal procurement cycle. Because the cycle starts near the beginning of the fiscal year and 6 to 9 months is required to make some procurements, a substantial amount of funds must be obligated near year-end. He believes, however, that the distribution of procurements is under control.

OST

OST awarded very few contracts in fiscal year 1975, but with greater activity in subsequent years, there was a high ratio of year-end awards.

R&D Contract Awards Over $100,000

	Fiscal year		
	1975	1978	1979
Number of contracts awarded	2	4	7
Percent in last month	0	50	28
Initial value of contracts awarded (thousands)	$253	$631	$2,214
Percent in last month	0	45	40

Measures taken to control year-end spending

A new set of priorities for R&D projects was established. Projects having the highest priority are to be submitted to the procurement office as quickly as possible. We were also advised that a system, similar to the one established by EPA, is being considered. Under such a

system, 85 to 90 percent of R&D funds would be committed and in the procurement office by March 31 and 100 percent by July 1.

OST officials told us that year-end procurements may be attributed to these factors:

--New contracts may not be issued at the beginning of the fiscal year while the agency is operating under a continuing resolution.

--Lengthy competitive procurement process.

--Preference to fund or initiate a program in the fiscal year in which the funds were appropriated.

We believe OST officials are mistaken about the first factor above. The restriction on new contracts during a period of continuing resolution only applies to new projects and not to contracts for ongoing projects or services.

LACK OF PROCEDURES FOR EVALUATING END PRODUCTS

We previously reported that four agencies--MarAd, NHTSA, FRA, and OST--did not have formal, systematic proceedures for evaluating the usefulness of contracted R&D end products. Our recent inquiry at these agencies disclosed that FRA and OST have still not implemented formal procedures for evaluating end products. NHTSA now has proceedures, but our limited review showed that evaluations are not always completed timely. MarAd's procedures appear to produce timely and informative evaluations. Although FAA had formal procedures at the time of our previous report, its performance evaluation forms are not especially informative.

MarAd

Since our previous report, MarAd initiated a requirement for a final evaluation to supplement its periodic progress reviews held during the contract period. Upon completion of a contract or a major contract phase, the Director of the Research and Development Office that managed the projects submits a report to the Assistant Administrator for Commercial Development. The report evaluates contract execution and results and gives suggestions on technology transfer to industry, the product's use, and the next work phase.

We selected three completed projects to determine whether completion reports were prepared timely. All three completion reports were submitted within 30 days of contract completion. Although there is no strict format required for the reports, all contained such pertinent information as

--cost,

--period of performance,

--objective of the research,

--historical or background information,

--research results or findings, and

--recommendations for technology transfer.

NHTSA

NHTSA initiated a requirement for a formal evaluation of completed contracts several months after issuance of our previous report. The contract technical manager prepares an evaluation form which is critiqued by users of the research product. The form includes a summary of the results and conclusions on the research efforts, the relationship of the results to the user's current or planned activities, a critique of the work performed, and recommendations. The completed evaluation is reviewed and approved by the Administrator and Deputy Administrator.

We selected final evaluations on three completed projects. There were considerable delays in preparing the evaluations, as shown in the following table.

Project no.	Date final report submitted by contractor	Date evaluation prepared by technical manager
1	May 1, 1978	January 4, 1979
2	January 31, 1979	March 31, 1979
3	February 2, 1979	February 29, 1980

The NHTSA Contracts Administrator told us that his office has not done a good job accounting for completed evaluations or requiring contract technical managers to

submit evaluations timely. A technical manager said the completion forms have a very low priority and are not always submitted timely.

FRA

FRA still has no formal procedures for evaluating end products upon completion of contracts. The program analyst for the Office of Research and Development told us that although formal evaluation procedures are lacking, other review procedures are employed.

The contracting officer's technical representative is responsible for sending an approval statement to the contracting officer when the final product is received. Approval is based solely on technical merit. Periodic reviews throughout the execution of a contract help maintain control over cost and schedule.

Agency officials told us that final reports are distributed to FRA users, the National Technical Information Service, and the Railroad Research Information System.

OST

OST still has no formal procedures for the evaluation of contracted R&D end products, which are usually technical or feasibility reports and recommendations. The Director of the Management Staff, Office of the Assistant Secretary for Policy and International Affairs, told us that the end products have an impact on policy decisions within the Department of Transportation and provide information to the Congress and the White House. He believed it would be difficult to evaluate end products dealing with a policy-related area, but OST is beginning to consider the use of some kind of formal evaluation. He said that OST is doing a good job in informally assessing what is being performed by contractors. In the absence of a formal evaluation system, we were not able to confirm the quality of these informal assessments.

FAA

Agency officials told us that FAA's formal procedures for evaluating the usefulness of contracted R&D end products consist of the completion of a certificate of acceptance and a contractor performance evaluation form. Both documents are placed in the contract file when the contract is closed.

A copy of the performance evaluation form is also placed in a file that contains information on contractors doing work for FAA.

Our review of two completed performance evaluation forms disclosed that they were signed by contract specialists and contracting officers and consisted of a series of checkmarks but no written comments. Thus, the overall usefulness of the evaluations could not be ascertained.

CONCLUSIONS

Most of the agencies have made considerable progress since fiscal year 1975 in reducing the proportion of year-end R&D contract awards. The year-end awards are still significant, however, because the reductions were made from an extremely high level of awards at the close of 1975.

Most agencies have taken steps to curb year-end spending. However, one of the measures taken by several agencies--establishing cutoff dates for commitment of funds or submission of procurement requests that require contract award by year-end--appears to be of questionable value in reducing year-end procurements. A more effective measure would be one that encourages an even distribution of commitments and procurement request submissions throughout the year. In chapter 2, we recommended that procurement requests could be initiated and processed (up to requesting bids) prior to the beginning of the fiscal year and before appropriations were approved.

MarAd is the only agency of those we reviewed which has an acceptable and working end product evaluation system. The remaining four either have no procedures or place a low priority on complying with procedures.

RECOMMENDATIONS

We recommend that these agencies develop and implement annual procurement plans for their R&D projects which would spread awards throughout the fiscal year.

We also recommend that FRA and OST should develop and implement procedures for evaluating end products of their R&D contracts. Also, we recommend FAA and NHTSA should place a higher priority on completing evaluation procedures in order to make the process meaningful and timely.

CHAPTER 6

SCOPE OF REVIEW

The purpose of our review was to determine the (1) extent and causes of year-end spending by Federal civilian departments and agencies and (2) possible legislative controls to reduce the practice. Specifically, we were requested to address

--how the agencies investigated for our 1977 report on year-end R&D procurement improved the distribution of their spending on contracts to profitmaking firms,

--whether adequate justification exists for the increase in spending by HEW for consultant fees and services during the last quarter of the fiscal year,

--whether using selected agencies within HEW and other departments and whether there was a significant increase in grants and other noncompetitive awards toward the end of the fiscal year,

--whether the appropriation process serves as an incentive for agencies' year-end spending spree, and

--whether Federal agencies complied with the OMB directive to curtail wasteful year-end spending.

We conducted our review from July 1979 to April 1980, and it was performed at the following locations:

--HUD, Washington, D.C.

--HEW (now HHS), - OE, Washington, D.C.; NIH, Bethesda, Maryland; SSA, Woodlawn, Maryland; and NIE, Washington, D.C.

--Department of the Interior - BIA, Albuquerque, New Mexico; BOM, Denver, Colorado; and the U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

--EPA, Washington, D.C., and Research Triangle Park, North Carolina.

Our followup review of R&D contracts was performed at the following locations:

--EPA, Washington, D.C.

--Department of Transportation, Washington, D.C. headquarters of FRA, FAA, NHTSA, and OST.

--Department of Commerce, Washington, D.C., and MarAD, Washington, D.C.

The agencies we reviewed, other than those identified in Chairman Harris' letter of request, were selected on the basis of data reported to the Department of Treasury on SF 225, "Reports on Obligations" during fiscal year 1978. We analyzed this data to determine surges in year-end spending by Federal civilian agencies.

In order to answer the question on R&D contracts, we repeated our 1977 review at the same agencies. The review included an examination of contract files; a comparison of procurement data for the fiscal years 1975, 1978, and 1979; an analysis of the data for 1978 and 1979 to develop year-end surges; and discussions with procurement officials. Also, we studied and evaluated the agencies' policies and procedures for spreading procurement over the entire fiscal year and for evaluating the products of R&D contracts.

HEW's policies and procedures for awarding consulting services contracts were reviewed to determine the agencies' requirements for

--the extent of competition for contracts,

--the justification of need statement, and

--conducting a price evaluation of a proposal.

We obtained and analyzed a listing of all of the consulting services contracts that were active as of September 1979. We also reviewed a listing of all appointive consultants and the fees paid them for each quarter in fiscal year 1979. In addition, we performed a detailed review of consulting services contract files and grant files awarded in September 1978 and 1979. We discussed our analyses of the files with procurement and program officials.

In order to develop statistical data to determine trends in year-end grant and contract awards by the departments and agencies, we obtained from them a list of monthly awards of grants and contracts for fiscal years 1978 and 1979. The listings of contracts and grants identified which were competitive or noncompetitive, which were new or modified, the dollar value or cost, and the product and/or service procured.

We used this data to determine (1) whether agencies were complying with Presidential and OMB directives to curtail year-end spending and (2) the volume of noncompetitive awards made during the final quarter and month of the fiscal year. We discussed our analyses of this data with agency officials.

Based on these analyses, we selected a sample of contract and grant files to review for compliance with acquisition regulations. When possible, the samples consisted of the following contracts awarded during September of fiscal years 1978 and 1979:

--New contracts and grants over $100,000, but some under $100,000 were included.

--Contracts which were negotiated or not competitively awarded, but some formally advertised awards were also included.

--Contracts and grants with a short time frame between receipt of procurement request and an awarding of a contract.

--Contracts and grants which were modified, renewed, or continued during the month of September.

The volume of our samples was based on a goal of reviewing 10 percent, or at least 25 files, of the contractual actions performed at year's end.

CHAPTER 7

AGENCY COMMENTS

All the agencies covered in this report were given an opportunity to provide official comments. Due to a short time frame, we requested the agencies respond within 5 working days after receiving the report. Only OMB, HUD, and Commerce provided official comments, but we also met with agency officials of HUD, Commerce, and five other agencies to discuss the report; their views are included in the body of the report as appropriate. The agencies' official comments and our responses follow.

HUD COMMENTS

HUD objects to including excerpts from our report on their assisted housing programs in this report on year-end spending. The funds for these programs, however, were reported to the Treasury Department by HUD as obligations in the fourth quarter of the fiscal year. The subject of this report is funds obligated by Federal agencies during the fourth quarter. In September 1978, HUD obligated about $18 billion, or about 51 percent, of the total fiscal year 1978 obligations for grants, subsidies, and contributions. (See app. III.)

HUD objected to our use of a chart showing the phasing in of grants and subsidy funds during fiscal year 1979 to operational units when the draft report narrative discussed the possible effects on the procurement process when reserve funds are released at year-end for spending without a procurement plan. We agree that the chart and the narrative were not compatible, and we have removed the chart from the final report.

Concerning the availability of data on HUD's contractual obligations, we made numerous attempts from November 1979 to March 1980 to obtain this data for fiscal years 1978 and 1979. None of our attempts was successful. HUD did provide several listings of contracts, but none of these included data on HUD's obligations. This problem was brought to the attention of HUD officials more than once. (See app. VII.)

COMMERCE COMMENTS

Commerce believes that the 20-percent limitation on obligations in proposed House Bill, H.R. 7287 and our recommendation on an advance procurement planning system oversimplifies a complicated concept. We believe our discussion and recommendation on these items was constructive. Our purpose was not to design an advance planning system for the entire executive branch, but to recommend that each department and agency design and implement a system which would suit its needs and reduce excessive year-end spending.

Our discussion on contract modifications troubled Commerce. Nowhere in our discussion of modifications do we imply that most modifications are abused. (See app. VIII.)

OMB COMMENTS

OMB did not concur with our proposal to take steps to allow agencies to request appropriations to cover future pay increases. OMB believes the agencies will be more frugal under the current system of absorbing approximately 20 percent of pay increases through attrition and unfilled positions and requesting a supplemental for the remaining 80 percent.

While we learned that several agencies established reserves to cover unfunded pay increases and that these reserves are a prime source of funds for year-end spending, we did not review in detail all the effects of the OMB restriction against budgeting for pay raises. Accordingly, we are not making the proposal at this time.

APPENDIX I

NINETY-SIXTH CONGRESS

HERBERT E. HARRIS II, VA., CHAIRMAN

GLADYS NOON SPELLMAN, MD. BENJAMIN A. GILMAN, N.Y.
ROBERT GARCIA, N.Y. WILLIAM E. DANNEMEYER, CALIF.

U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON HUMAN RESOURCES
406 CANNON HOUSE OFFICE BUILDING
Washington, D.C. 20515

79 JUN 4 A9:48

May 29, 1979

Mr. Elmer B. Staats
Comptroller General of
the United States
Washington, D.C. 20548

Dear Mr. Staats:

My Subcommittee on Human Resources has been examining contracting out by Federal agencies. As a result of initial investigation, I have seen some indications and heard distressing reports concerning increased contracting activity by Federal agencies toward the end of the fiscal year.

Some of this increased activity could be attributed to time consuming competitive procedures or the culmination of contract negotiations which have occurred throughout the fiscal year. In these cases, fourth quarter awards would be entirely appropriate since competition and hard negotiating serve to insure the best return on the procurement dollar for necessary goods and services.

What distresses me are reports which I have received concerning a fourth quarter spending spree in which some Executive agencies allegedly indulge. Typically, I have heard that many procurement officers are virtually chained to their desks during the closing weeks of the fiscal year. Some agencies appear to feel that they must spend every cent which Congress appropriates. In fact, I fear that the current system may serve as an incentive to the alleged practice.

In 1977, your office issued a report concerning R & D contracts which showed that the agencies surveyed awarded two-thirds of their contracts to profit making firms in the last month of the fiscal year. I fear that this practice continues in many Executive agencies, and is not limited to R & D activities.

I have recently viewed the semi-annual Reports of Obligations in excess of $25,000 for Consultant Fees and Services in HEW for FY '78. For the six month period ending March 31, 1978, this figure amounted to $32M. However, for the six month period ending September 30, 1978, the cost escalated to over $125M. Moreover, although no costs were incurred for "Appointive Consultants" during the first semi-annual reporting period, the cost was placed at $391,000 for the second half of the year. This lends credence to reports we have heard alleging increased spending on grants or other non-competitive arrangements toward the end of the year.

Mr. Elmer B. Staats
May 29, 1979
Page Two

I am requesting that your office initiate an investigation, to be completed by June 1980, into end of year spending practices by Federal agencies. We would appreciate your report addressing the following specific areas:

1) How the agencies investigated for your 1977 R & D report improved the distribution of their spending on contracts to profit making firms;

2) Does adequate justification exist for the increase in spending by HEW for consultant fees and services during the last quarter of the fiscal year;

3) Using selected agencies within HEW and other Departments, do you note a significant increase in grants and other non-competitive awards towards the end of the fiscal year;

4) What specific recommendations would you make for legislation to control this year-end spending spree?

Although we would like these specific areas addressed, we would also appreciate whatever information you can provide on overall spending patterns by Federal agencies. During this period of Federal belt-tightening, we would like to find out whether the appropriations process serves as an incentive for agencies to spend allotted funds prior to the end of the fiscal year, rather than returning unused funds to the Treasury.

I am all for hard competition and long negotiations which result in necessary goods and services being procured at a fair price; however, I would like some assurance that those goods and services purchased towards the end of the year are actually necessary.

If you have any questions or comments, please feel free to contact me or my Subcommittee Staff Director, Anita Gottlieb, at 225-2821.

Sincerely,

HERBERT E. HARRIS II
Chairman
Subcommittee on Human Resources

HEH:tj

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

August 7, 1979

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Controlling Year-End Buying

As we enter the last quarter of fiscal year 1979, I ask you to make sure that we continue to use public funds wisely by avoiding unnecessary year-end buying. I cannot overemphasize that prevention of unneeded or unwise Federal Government spending is an essential part of our efforts to control inflation. Public funds should be used only for necessary program purposes, and should not be obligated solely to commit funds before they lapse.

Please issue instructions to your contract and program offices assuring that:

-- Obligations for the fourth quarter of the fiscal year are no higher than for the third quarter, except where seasonal requirements, essential program objectives, or procurement lead-times justify a higher level, or where more money is needed to restore program slippages to approved levels;

-- Purchases are not made to avoid what otherwise would be an outlay shortfall;

-- Grants are subjected to rigorous review and are not made just to keep funds from lapsing; and

-- Orders for services, supplies, materials, and equipment are no more than are needed to meet approved program objectives.

(1) The need for the following should be closely controlled and reevaluated:

- Procurement of additional hours of service or items of supply or equipment that were not in the original procurement request with funds that would otherwise lapse.

- Purchase of additional items not contained in the original procurement request or contractor proposal with funds negotiated out of contractors' proposals or those available because estimated needs were in excess of the funds actually required.

- Exercise of options, orders against basic ordering agreements or requirements-type contracts, or the funding of the latter years of a multi-year contract.

(2) Funds obligated to cover unpriced items, such as spare parts, should not be in excess of the current best estimate of need for those items. In addition, those in excess of the original procurement request should be clearly justified.

(3) Letter contracts should be closely monitored and funds should not be obligated in excess of that allowed by regulations, nor should letter contracts be used as a vehicle to obligate funds that would otherwise lapse.

(4) When contracts are modified or change orders issued to increase level of effort or procure additional items or services, the additional requirements must be validated.

(5) The procurement of consultant services and modifications of current consultant contracts should be reviewed for compliance with OMB Bulletin 78-11, May 5, 1978.

(6) Purchases or orders for administrative supplies or services, such as office furniture, supplies, or renovation, should not be approved unless planned in advance or needed to meet an emergency.

7) Purchases by or orders from central procurement offices, such as the General Services Administration and the Defense Logistics Agency, should not be in excess of current utilization factors and optimal inventory levels.

APPENDIX II

Those responsible for review of procurement and grant actions (e.g., contracting officers, program officers, legal counsel, auditors and Inspector General personnel) should consider noncompliance with this memorandum as an indication of waste.

I count on your full cooperation and personal attention to save the taxpayers as much money as possible in support of the President's fiscal objectives.

James T. McIntyre, Jr.

James T. McIntyre, Jr.
Director

OBLIGATIONS OF CIVILIAN AGENCIES FOR FISCAL YEARS 1978 AND 1979

This appendix includes 6 tables displaying the spending patterns of 16 civil departments and agencies during fiscal years 1978 and 1979. The data is presented in the form of monthly obligations combined for the 16 agencies, September surge in obligations by each agency, quarterly obligations and percentages for each agency, and obligations for August and September isolated and compared to annual obligations.

In addition, we present 3 tables of data on the agencies selected for detailed review in forms comparable to those for the 16 agencies.

Tables 1 and 2 display the quarterly obligations in dollars and percentages for the 16 agencies. The fourth quarter percentages range from 18 for the Department of Labor to 75 for HUD in fiscal year 1978 and from 17 for Labor to 61 for HUD in fiscal year 1979.

Table 1
Quarterly Obligations and Percentage of Total Annual Obligations Incurred Outside The Federal Government by 16 Selected Agencies for Fiscal Year 1978 (in millions of dollars)

Department or agency	First quarter		Second quarter		Third quarter		Fourth quarter		Annual total
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	
Agriculture	$ 6,492	23	$ 7,963	28	$ 7,365	26	$ 6,715	23	$ 28,535
Commerce	854	35	152	(a)	649	27	818	33	2,473
Energy	34	(a)	6,935	60	2,250	20	2,289	20	11,508
HEW	11,534	20	12,379	21	13,981	24	21,118	36	59,012
HUD	1,110	3	2,530	6	6,935	16	31,710	75	42,285
Interior	1,424	26	934	17	877	16	2,148	40	5,383
Justice	768	34	443	19	441	19	628	28	2,280
Labor	4,823	39	3,153	26	2,051	17	2,184	18	12,211
State	294	18	454	28	312	19	551	34	1,611
Transportation	1,976	23	1,776	21	2,628	31	2,132	25	8,512
Treasury	10,927	8	56,386	41	33,369	24	35,989	26	136,671
EPA	441	12	801	21	702	19	1,814	48	3,758
GSA	930	24	897	23	1,003	26	1,040	27	3,870
NASA	1,170	28	1,063	26	984	24	896	22	4,113
VA	5,194	26	5,159	26	4,958	25	4,872	24	20,183
SBA	418	12	1,174	35	620	18	1,147	34	3,359
Total	$48,389	14	$102,199	30	$79,125	23	$116,051	34	$345,764

Source: Treasury Bulletin, table FO-3.

a/Denotes surge of less than 1 percent.

Table 2
Quarterly Obligations and Percentage of Total Annual Obligations Incurred Outside the Federal Government by 16 Selected Agencies for Fiscal Year 1979 (in millions of dollars)

Department or agency	First quarter		Second quarter		Third quarter		Fourth quarter		Annual total
	Amount	Per-cent	Amount	Per-cent	Amount	Per-cent	Amount	Per-cent	
Agriculture	$ 6,489	19	$ 9,039	27	$ 8,773	26	$ 9,129	27	$ 33,430
Commerce	600	20	632	21	650	22	1,109	37	2,991
Energy	5,233	52	1,993	20	971	10	1,894	19	10,091
HEW	12,457	20	14,328	23	10,883	17	25,019	40	62,687
HUD	983	3	1,883	6	10,245	31	20,145	61	33,256
Interior	1,483	25	1,122	19	1,384	23	2,037	34	6,026
Justice	794	35	477	21	463	20	548	24	2,282
Labor	6,991	46	3,004	20	2,580	17	2,513	17	15,088
State	328	13	359	14	304	12	1,501	60	2,492
Transportation	1,398	23	1,500	24	1,358	22	1,945	31	6,201
Treasury	37,273	24	37,661	24	38,319	25	40,719	26	153,972
EPA	525	10	917	17	1,404	26	2,510	47	5,356
GSA	825	22	897	24	950	25	1,076	29	3,748
NASA	1,321	28	1,177	25	1,067	23	1,135	24	4,700
VA	5,345	25	5,352	25	5,157	24	5,375	25	21,229
SBA	377	18	560	27	579	28	567	27	2,083
Total	$82,422	23	$80,901	22	$85,087	23	$117,222	32	$365,632

Source: Treasury Bulletin, table FO-3.

Tables 3 and 4 display obligations incurred during August and September 1978 and 1979. The obligations are shown in dollars and percentages of the totals for the fiscal years. Eight of the 16 agencies obligated during the 2-month period more than 20 percent of the year's total in 1978 and 7 did so in 1979.

In September 1978, 7 of the 16 agencies obligated more than 15 percent of the year's total funds, and in September 1979, 8 of 16 obligated 15 percent or more.

Table 3
Analysis of Gross Obligations Incurred Outside the Federal Government by 16 Selected Departments and Agencies During August and September 1978 (in millions of dollars)

Department or agency	August	September	Total for 2 months	Total for fiscal year	August and September percentage	September percentage
Agriculture	$ 2,096	$ 2,004	$ 4,100	$ 28,535	14	7
Commerce	156	495	651	2,473	26	20
Energy	331	1,573	1,904	11,508	17	14
HEW	2,856	12,682	15,538	59,012	26	21
HUD	5,771	20,710	26,481	42,285	63	49
Interior	431	1,195	1,626	5,383	30	22
Justice	222	271	493	2,280	22	12
Labor	436	769	1,205	12,211	10	6
State	125	282	407	1,611	25	18
Transportation	509	1,096	1,605	8,512	19	13
Treasury	12,170	11,974	24,144	136,671	18	9
EPA	244	1,232	1,476	3,758	39	33
GSA	454	251	705	3,870	18	6
NASA	312	319	631	4,113	15	8
VA	1,615	1,675	3,290	20,183	16	8
SBA	310	599	909	3,359	27	18
Total	$28,038	$57,127	$85,165	$345,764	25	17

Source: Treasury Bulletin, table FO-3.

Table 4
Analysis of Gross Obligations Incurred Outside the Federal Government by 16 Selected Departments and Agencies During August and September 1979 (in millions of dollars)

Department or agency	August	September	Total for 2 months	Total for fiscal year	August and September percentage	September percentage
Agriculture	$ 2,990	$ 2,868	$ 5,858	$ 33,430	18	9
Commerce	248	659	907	2,991	30	22
Energy	-125	1,771	1,646	10,091	16	18
HEW	4,710	9,650	14,360	62,687	23	15
HUD	6,237	9,134	15,371	33,256	46	27
Interior	479	916	1,395	6,026	23	15
Justice	195	203	398	2,282	17	9
Labor	701	682	1,383	15,088	9	5
State	399	890	1,289	2,492	52	36
Transportation	512	908	1,420	6,201	23	15
Treasury	13,696	12,650	26,346	153,972	17	8
EPA	297	1,941	2,238	5,356	42	36
GSA	396	308	704	3,748	19	8
NASA	446	365	811	4,700	17	8
VA	1,719	1,930	3,649	21,229	17	9
SBA	219	153	372	2,083	18	7
Total	$33,119	$45,028	$78,147	$365,632	21	12

Source: Treasury Bulletin, table FO-3.

Tables 5 and 6 compare obligations for the month of September to totals for fiscal years 1978 and 1979. This comparison determines the surges of the 16 civil agencies. In 1978, 10 of the 16 had surges greater than 30 percent. In 1979, this figure was reduced to eight. Some surges of note are those of HUD, EPA, State, Commerce, HEW, and the Interior.

APPENDIX III

Table 5
September Surge in Obligations for 16 Selected Agencies for Fiscal Year 1978
(in millions of dollars)

Department or agency	Obligations: Total	Obligations: September total	Obligations: 11-month average	September percentages: Percent of yearly total	September percentages: September surge (note a)
Agriculture	$ 28,535	$ 2,004	$ 2,412	7	(b)
Commerce	2,473	495	180	20	175
Energy	11,508	1,573	903	14	74
HEW	59,012	12,682	4,212	21	201
HUD	42,285	20,710	1,961	49	956
Interior	5,383	1,195	381	22	214
Justice	2,280	271	183	12	48
Labor	12,211	769	1,040	6	(b)
State	1,611	282	121	18	133
Transportation	8,512	1,096	674	13	63
Treasury	136,671	11,974	11,366	9	5
EPA	3,758	1,232	230	33	436
GSA	3,870	251	329	6	(b)
NASA	4,113	319	345	8	8
VA	20,183	1,675	1,683	8	(b)
SBA	3,359	599	251	18	139
Total	$345,764	$57,127	$26,271	17	118

a/The September surge is defined as the amount of funds obligated during September which are in excess of the average amount of funds obligated during the prior 11 months.

b/Denotes surge of less than 1 percent.

Source: Treasury Bulletin, table FO-3.

APPENDIX III

Table 6
September Surge in Obligations for 16 Selected Agencies for Fiscal Year 1979
(in millions of dollars)

Department or agency	Obligations: Yearly total	Obligations: September total	Obligations: 11-month average	September percentages: Percent of yearly total	September percentages: September surge (note a)
Agriculture	$ 33,430	$ 2,868	$ 2,778	9	3
Commerce	2,991	659	212	22	210
Energy	10,091	1,771	756	18	134
HEW	62,687	9,650	4,822	15	100
HUD	33,256	9,134	2,193	27	317
Interior	6,026	916	465	15	97
Justice	2,282	203	189	9	7
Labor	15,088	682	1,310	5	(b)
State	2,492	890	146	36	510
Transportation	6,201	908	481	15	89
Treasury	153,972	12,650	12,847	8	(b)
EPA	5,356	1,941	310	36	c/526
GSA	3,748	308	313	8	(b)
NASA	4,700	365	394	8	(b)
VA	21,229	1,930	1,755	9	10
SBA	2,083	153	176	7	(b)
Total	$365,632	$45,028	$29,147	12	55

a/The September surge is defined as the amount of funds obligated during September which are in excess of the average amount of funds obligated during the prior 11 months.

b/Denotes surge of less than 1 percent.

c/EPA officials advised us that this figure includes waste water grants made upon receipt of grant applications from States. They added that the States may delay submission of their application until shortly before expiration of the 2-year reallocation period.

Source: Treasury Bulletin, table, FO-3.

Tables 7, 8, and 9 present a data analysis of obligations by the agencies we selected for detailed review. We were limited in our review and analysis of these agencies due to a lack of information. These limitations are noted in the tables, and a discussion of data problems follows these tables. Table 7 schedules the quarterly obligations of the agencies for grants and contracts awarded in fiscal year 1979. This data was not available for fiscal year 1978.

The fourth quarter had the greatest number of grant and contract awards. EPA, OE, and BOM had the highest percentage of awards during the fourth quarter.

Tables 8 and 9 present the September surges of the agencies we reviewed in detail. Most of the agencies lowered their surge percentage during fiscal year 1979. OE and EPA did not. Even though BOM cut their percentage in half, it was still over 500 percent.

Table 7

Quarterly Obligations and Percentage of Annual Obligations Incurred by Agencies Selected for Detailed Review for Contracts and Grants Awarded During Fiscal Year 1979 (note a)

(in thousands of dollars)

Department or agency	First quarter Amount	First quarter Percent of year	Second quarter Amount	Second quarter Percent of year	Third quarter Amount	Third quarter Percent of year	Fourth quarter Amount	Fourth quarter Percent of year	Annual total
BIA—Albuquerque office (contracts)	$ 16,606	56	$ 2,168	7	$ 3,588	12	$ 7,510	25	$ 29,871
BOM—Denver office (contracts)	2,990	11	4,041	15	5,264	20	14,052	53	26,348
NIH:									
(grants)	410,997	19	451,883	21	753,170	36	498,072	24	2,114,121
(contracts)	58,126	11	89,066	17	228,104	44	144,908	28	520,204
OE:									
(grants)	24,031	2	111,215	10	587,367	53	385,050	35	1,107,664
(contracts)	9,068	5	21,983	12	41,949	23	110,605	60	183,605
SSA:									
(grants)	2,631,050	20	3,318,939	26	2,466,187	19	4,574,063	35	12,990,239
(contracts)	267,163	23	277,170	25	275,050	25	299,769	27	1,119,152
EPA—agency-wide (grants)	466,597	10	776,538	17	1,263,264	27	2,117,103	46	4,625,502
HUD	We were unable to obtain the above data on grants and contracts from HUD's management information system.								

a/Grant figures also include subsidies and contributions (object class 41). For example, the grant figure shown for SSA included payments under the Supplemental Security Income, the Aid to Families with Dependent Children, and the refugee program.

Source: Report on Obligations, Standard Form 225, submitted monthly by agencies to the Treasury.

APPENDIX III

Table 8
September Surge in Obligations
for Agencies Selected for Detailed Review
Fiscal Year 1978
(in thousands of dollars)

Department or agency	Obligations			September percentages	
	Yearly total	September total	11-month average	Percent of yearly total	September surge
BIA--Albuquerque office (contracts)	$ 26,226	$ 3,628	$ 2,054	14	77
BOM--Denver office (contracts)	23,667	11,895	1,070	50	1,012
OE:					
(grants)	1,042,684	327,189	65,045	31	403
(contracts)	141,057	67,196	6,715	48	901
SSA:					
(grants)	13,289,074	2,312,161	997,901	17	132
(contracts)	1,016,837	131,536	80,482	13	63
EPA--agency-wide (grants)	3,048,202	1,056,504	181,063	35	484

Source: Report on Obligations, Standard Form 225, submitted monthly by agencies to the Treasury.

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Table 9
September Surge in Obligations
for Agencies Selected for Detailed Review
Fiscal Year 1979
(in thousands of dollars)

Department or agency	Obligations: Yearly total	Obligations: September total	Obligations: 11-month average	September percentages: Percent of yearly total	September percentages: September surge
BIA--Albuquerque office (contracts)	$ 29,871	$ 2,685	$ 2,471	9	9
BOM--Denver office (contracts)	26,348	9,690	1,514	37	540
NIH:					
(grants)	2,114,121	110,416	182,155	5	-39
(contracts)	520,204	110,234	37,270	21	196
OE:					
(grants)	1,107,664	212,127	81,412	19	161
(contracts)	183,605	87,489	8,738	48	901
SSA:					
(grants)	12,990,239	1,772,697	1,019,777	14	74
(contracts)	1,119,152	65,985	95,742	5	-31
EPA--agency-wide (grants)	4,625,502	1,722,410	259,372	37	583

Source: Report on Obligations, Standard Form 225, submitted monthly by agencies to the Treasury.

APPENDIX III

Analysis of Obligations in 5 Object Classes by Agencies Selected for Review and 16 Civil Agencies
(in millions of dollars)

Fiscal Year 1978

Agency		Class 25 other services	Class 26 supplies and materials	Class 31 equipment	Class 32 lands and structures	Classes 25,26,31, and 32 combined	Class 41 grants, subsidies, and contributions
HEW	FY 1978 total	2,312	165	104	104	2,685	50,482
	September total	534	24	36	-	567	11,703
	Sept. percentage	23	15	35	-	21	23
	Surge percentage	230	85	500	-	194	232
HUD	FY 1978 Total	390	2	4	537	933	35,297
	September total	99	-	1	106	206	17,976
	Sept. percentage	25	-	25	20	22	51
	Surge percentage	281	-	233	172	212	1,041
Interior	FY 1978 total	979	159	98	928	2,164	1,694
	September total	133	25	28	354	540	517
	Sept. percentage	14	16	29	38	25	31
	Surge percentage	73	108	367	581	265	383
EPA	FY 1978 total	279	24	20	4	327	3,143
	September total	100	4	7	1	112	1,097
	Sept. percentage	36	17	35	25	34	35
	Surge percentage	525	100	600	233	460	490
Sixteen selected agencies	FY 1978 total	18,864	3,786	1,623	3,610	27,883	130,017
	September total	2,668	363	355	1,062	4,448	37,055
	Sept. percentage	14	10	22	29	16	29
	Surge percentage	81	17	209	358	109	338

Source: Treasury Bulletin, table FO-3.

APPENDIX III

Analysis of Obligations in 5 Object Classes by Agencies Selected for Review and 16 Civil Agencies (in millions of dollars)

Fiscal Year 1979

Agency		Class 25 other services	Class 26 supplies and materials	Class 31 equipment	Class 32 lands and structures	Classes 25,26,31, and 32 combined	Class 41 grants, subsidies, and contributions
HEW	FY 1979 total	2,153	189	109	67	2,518	54,530
	September total	498	34	42	21	595	8,680
	Sept. percentage	23	18	39	31	24	16
	Surge percentage	232	143	600	425	240	108
HUD	FY 1979 total	194	2	4	510	710	26,076
	September total	51	-	2	96	149	6,885
	Sept. percentage	26	-	50	19	21	26
	Surge percentage	292	-	900	153	192	295
Interior	FY 1979 total	1,150	198	118	880	2,346	1,926
	September total	191	33	40	135	399	345
	Sept. percentage	17	17	34	15	17	18
	Surge percentage	120	120	471	99	125	140
EPA	FY 1979 total	330	11	26	2	369	4,685
	September total	100	2	12	1	115	1,802
	Sept. percentage	30	18	46	50	31	38
	Surge percentage	376	150	1,100	900	400	588
Sixteen selected agencies	FY 1979 total	18,291	3,833	1,674	3,548	27,346	126,668
	September total	3,105	303	391	779	4,578	20,460
	Sept. percentage	17	8	23	22	17	16
	Surge percentage	125	-	234	209	121	112

Source: Treasury Bulletin, table FO-3.

APPENDIX III

Recapitulation of Questionable Year-End Spending Practices and Noncompliance With Procurement Laws, Regulations, and Procedures at Agencies Covered by Review

Questionable areas	Dept. of the Interior					HEW			
	BIA	BOM	HUD	EPA	NIH	SSA	OE	HEW Office of the Secretary	Total
Complaint or protest due to short bid response period	-	-	1	-	2	-	-	-	3
Agency agreed that procurement made due to excess funds	2	4	-	-	-	-	-	-	6
Violation of Title 31, Sec. 200(a), Sec. 1311(a)	9	-	-	-	-	27	-	-	36
Violation of Indian Self Determination, 93-638	5	-	-	-	-	-	-	-	5
Violation of bonafide need	8	-	1	2	-	-	-	-	11
No preaward survey	-	4	-	25	-	-	1	-	30
Master bidders list not reviewed	1	1	-	10	-	-	-	-	12
No determination and findings	5	4	-	1	-	-	10	-	20
Not advertised in Commerce Business Daily	2	-	2	-	-	-	7	-	11
No price/cost analysis	3	2	2	6	2	-	9	1	25
No negotiation memo	4	3	-	-	-	-	1	1	9
Sole source not justified	4	-	5	1	-	-	2	-	12
Socioeconomic factors not considered	-	1	-	-	-	-	-	-	1
8(a) subcontract not awarded	-	-	4	-	-	-	-	-	4
Senior agency official overriding proc. office	-	-	-	-	-	-	7	-	7
Agency totals	43	19	15	45	4	27	37	2	192
Number of contracts involved	14	8	10	32	4	27	19	1	115
Number of contracts reviewed	41	32	42	42	19	51	47	10	255

APPENDIX IV

OTHER EXAMPLES OF QUESTIONABLE YEAR-END PROCUREMENTS

CHAPTER 2--YEAR-END SPENDING CAUSES, TECHNIQUES, AND EFFECTS

Noncompetitive or sole-source awards

Examples of sole-source awards at year-end.

--EPA awarded a sole-source, fixed-price contract for $161,000 on September 28, 1978, for furnishing all labor, materials, and equipment necessary to upgrade the audiovisual system and refurbish the auditorium at Research Triangle Park, North Carolina. The contract was funded from 2-year appropriations scheduled to expire October 1, 1978. The purchase request was issued August 25, 1978, to the Contracts Management Division and was authorized as a priority procurement. Agency officials generally believed that the negotiated price was fair, but the contracting officer did not believe that a major refurbishment was warranted for a leased facility. The solicitation was made sole source to speed up the contracting process, and competition was avoided. A bid protest by a vendor, that was denied the opportunity to bid on the contract, was upheld by the Comptroller General, but the procurement was allowed to stand because work was almost completed before the protest was decided. A procurement official stated that this procurement would have been done competitively if there were more time before year-end and that the contracts planning system reduces the probability of it happening again. The award of noncompetitive contracts, when competition is obtainable, is generally more costly.

Section 8(a) of Small Business Act contracting

Examples of contracts when subcontracts have not as yet been negotiated.

--On September 27, 1979, HUD awarded a prime contract for $30,000 to SBA for training materials for the Indian Housing program. No subcontract has been issued after 7 months. The program office has revised the

statement of work four times. These changes have hindered negotiation of the subcontracts.

--On September 27, 1978, HUD awarded a prime contract for $30,000 to SBA to perform a handicapped employees skills survey. The procurement request was dated September 18, 1978. No subcontract was negotiated by April 30, 1980, because the Government file was misplaced during a reorganization and was not found until our inquiry. A subcontract is now being negotiated.

Other examples of questionable awards under the Small Business Act follow.

--On September 28, 1978, HUD awarded a prime contract to SBA for $75,000 to microfilm deteriorating accounting records. Although the need for the work was known for some time, the procurement request was not submitted to the procurement office until September 25, 1978. The memorandum on negotiations stated that the award to SBA under the section 8(a) program was made to preserve fiscal year 1978 funds and to help meet the fiscal year goal under the program.

Top agency official awarded contracts over objections of contracting personnel

--OE awarded a sole-source cost reimbursement contract on September 30, 1979, for $110,050 to a national organization of minority women to implement a career development program for 45 out-of-school youths between the ages of 16 and 21 living in Bronx, New York.

The negotiator received the procurement file on September 28, 1979, with the stipulation that the contract should be awarded on a noncompetitive basis by midnight of September 30, 1979. The Acting Commissioner directed that the award be made to the above contractor. The Executive Deputy Commissioner for Educational Programs waived the requirement for review by the Non-Competitive Review Board. The contracting personnel questioned the usefulness of the contract since they believed that the New York Comprehensive Employment and Training Act program was meant to handle this type of program.

--OE awarded a sole-source, cost reimbursement contract for $641,551 on September 30, 1979, to a national

educational organization to continue, expand, and complete the interassociational project on Higher Education and the Handicapped.

An unsolicited proposal was received in June 1979 with a second technical proposal submitted that was dated September 24, 1979. The project officer did not submit the proposed procurement to the sole source board for review. Other points raised in the proposed procurement were:

--An objection raised on a request to waive Cost Accounting Standards Board requirement for disclosure statement.

--Inadequate sole-source justification.

--Proposed project coordinator for the prime contractor was also on the staff of the proposed subcontractor.

--Several questionable cost elements in cost proposal.

--Possible duplication of work already contracted for under the student financial aid program.

--OE awarded a sole-source cost reimbursement contract on September 30, 1979, for $135,000 to an organization for equal opportunity to organize conferences for representatives from 104 historically black colleges.

The Acting Commissioner waived the Non-Competitive Board procedures and directed the procurement division to award the contract to the above contractor. The Deputy Commissioner for Higher and Continuing Education requested the Acting Commissioner to ratify the sole-source procurement. The procurement division did not approve the procurement action request. No cost or price analysis was found in the file.

CHAPTER 4--HEW CONSULTING SERVICES

Fourth quarter consulting service contract awards continue at a high rate

--Another example of accelerated year-end awarding is an OE contract for $51,650 awarded fixed-price, sole source on September 29, 1978, to a research institute for higher learning. The award was processed in 21

days from request for procurement to the award date. Sole source was justified by time constraints and the fact that the contractor had some in-house proprietary data. No synopsis was submitted to the Commerce Business Daily and there was no other documentation in the file for rushing through this sole-source award.

--An example of undocumented year-end spending is an OE contract awarded for $2,467,631 on August 4, 1978, to a nonprofit research institute to evaluate the teachers corp program. This cost-plus-fixed-fee contract was awarded only 22 days after the request for proposal. Although there were six responses to the request for proposal, the contractor's proposal was the only one considered to be in the competitive range. The contract was modified on May 16, 1979, for an increase of $140,000 for travel funds, since no travel funds were included in the quickly awarded original contract.

APPENDIX VI

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-197274

APRIL 30, 1980

The Honorable Jamie L. Whitten
Chairman, House Appropriations
Committee

The Honorable Edward P. Boland
Chairman, Subcommittee on HUD
and Independent Agencies
House Appropriations Committee

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

The Honorable Warren G. Magnuson
Chairman, Senate Appropriations
Committee

The Honorable William Proxmire
Chairman, Subcommittee on HUD and
Independent Agencies
Senate Appropriations Committee

Subject: Unsupported Year-End Obligations Overstate the Progress of Assisted Housing (PSAD-80-41)

We believe that a substantial portion of the year-end obligations reported by the Department of Housing and Urban Development (HUD) since FY 1976 for a certain no-year appropriation, have been invalid because they did not meet the statutory test of legal sufficiency. In a subsequent year, HUD deobligated many of the invalid obligations of prior years and reobligated the amounts involved. While we are unable to determine how much was deobligated from each year prior to FY 1979, agency officials indicated that they expected several billion dollars in deobligations in the current fiscal year.

In performing a review of year-end spending at the request of the Chairman, Subcommittee on Human Resources of the House Committee on Post Office and Civil Service, we

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found that HUD had an $18 billion surge in obligations in the last month of fiscal year (FY) 1978. In examining the causes for this increase, we found that about $16.5 billion was in one appropriation account entitled "Annual Contributions for Assisted Housing." After further analysis we found that the year-end obligations were inadequately documented. HUD has been recording obligations for this housing account and reporting them to the Treasury, Office of Management and Budget, and Congress, when in reality there was no legal obligation on the part of the United States Government. Subsequently, HUD deobligated and reobligated a portion of its previously reported obligations. This procedure provides HUD with significant amounts of obligational authority in excess of that indicated by its financial reports.

The assisted housing account includes such programs as lower income housing and public housing. Obligations for these programs have been based on "notification" and "reservation" letters. These documents advise project sponsors that their projects have tentatively been selected for funding and that when and if they develop more detailed plans, HUD will review them for final approval. Upon approval, a contract is entered into. We questioned HUD accounting officials about the propriety of recording obligations on the basis of these "letters" and they agreed that the obligations are questionable. Other HUD officials said obligations for lower income housing (Section 8) have been based on "notification" letters since FY 1976, after HUD's conversion to "Budget Authority" mandated by the Congressional Budget Act of 1974. With respect to "reservation" letters, in January 1977 the then acting Under Secretary decided to use them as obligating documents, apparently at the urging of HUD's then Assistant Secretary for Housing and with the agreement of HUD's Office of General Counsel and Office of Budget.

In our opinion, recording obligations on the basis of reservation and notification letters is improper, and does not meet the criteria of 31 U.S.C. 200 which states in part:

(a) " . . . . no amount shall be recorded as an obligation . . . . unless it is supported by documentary evidence of (1) a binding agreement in writing . . . ."

(e) "Any statement of obligation of funds furnished . . . . to the Congress . . . . shall include only . . . . valid obligations . . . ."

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We believe the notification and reservation letters are not legally sufficient to constitute obligations.

In reporting obligations based on these letters, we believe HUD could have misled the Congress on its needs for additional budget authority the next fiscal year by understating the balance available for obligation. This gives the impression that HUD has carried out its mission by actually contracting for assisted housing to a greater extent than it has. An indication of the tentative nature of these obligations is the ease with which large amounts are deobligated and reobligated in subsequent periods. For example, during FY 1979 HUD deobligated and then reobligated about $7 billion of fiscal years 1976, 1977, and 1978 obligations. HUD officials said they expect to deobligate and then reobligate many billions of dollars during FY 1980.

HUD officials do not agree with the conclusions of this report, and their comments are incorporated in appropriate sections of this letter.

According to HUD officials, for FY 1976, "approved lists" of contracts not yet executed, were used as a basis for recording obligations in public housing. Since FY 1977, however, HUD obligations have been recorded on the basis of "letters" even though the letters clearly state they are not a "legal obligation" of the Government.

HUD officials were cautioned on the use of "paper reservations" in a report prepared by the Surveys and Investigations Staff of the House Appropriations Committee dated February 21, 1978, and presented during congressional hearings in the spring of 1978. The report disclosed the problem of HUD making "reservations" too early in the discussion stage and subsequent terminations. The report recommended that HUD must curtail the use of "gimmicks" such as "paper reservations." In a follow-on review, the Staff reported that HUD made significant efforts to eliminate "paper reservations" and has been very successful in doing so. However, they reported that the elimination of "paper reservations" appears to be another area where the use of review teams can be effective. If HUD based its obligations on executed contracts only, rather than "reservation" documents, we believe it would have avoided

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the problem with respect to invalid obligations being reported to the Congress.

HUD officials maintain that the extent of deobligations in relation to obligations is not nearly as high as is implied by the data available for fiscal year 1979 and the deobligations they expect will occur in the current fiscal year. They believe that less than 10 percent of the obligations, fail to result in contracts with the intended parties. However, HUD officials informed us that the records maintained by HUD are inadequate to document their opinion.

HUD further states that its procedure of recording reservation documents as obligations did not mislead any of its legislative or appropriation subcommittees in the Congress or the examiner from Office of Management and Budget. HUD officials maintained that congressional committees were fully aware of the basis on which HUD recorded its obligations and had tacitly approved it. We found that although the staff of committees that reviewed HUD's programs and budget had been made aware of HUD's policy of recording commitments and reservations as obligations, they were not aware of the extent of HUD's deobligations. Had they been fully apprised of the extent of deobligations they would have questioned the basis for HUD's obligations.

For the public housing program, HUD officials advised that the change making a reservation document adequate to support an obligation was made because they believed that they could be liable to a recipient of the reservation if the recipient had incurred costs in relation to the project and HUD later withdrew the reservation. Thus they contend their intent was not to overstate obligations, but rather to recognize potential liabilities. We note however, that the reservation document clearly states that it is not a legal obligation. Absent the existence of any real or potential liability, it appears to us the procedure followed by HUD served no purpose except to inflate the amount of reported obligations.

We are recommending to the Secretary of HUD that:

--a complete review of this account from FY 1976 to date be made to determine valid obligations based on contracts,

APPENDIX VI

B-197274

--the HUD Inspector General's Office validate the results of the review mentioned above,

--HUD record obligations on the basis of executed contracts, and

--a cumulative (including fiscal years 1976, 1977, and 1978) corrected Year-End Closing Statement be prepared for FY 1979 and certified to by the responsible HUD officer as required by law.

Until this is accomplished, we believe that HUD is in no position to accurately advise the Congress on what the unobligated balance is of this account or the new obligational authority needed. We suggest that the House and Senate Appropriations Committees consider deferring any action on HUD's current appropriation request for this account until HUD can report to the Congress an accurate and complete statement of valid obligations as required by law.

Elmer B. Staats
Comptroller General
of the United States

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

JUL 7 1980

IN REPLY REFER TO:

Mr. Henry Eschwege
Director, Community and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

We have reviewed the proposed GAO report entitled "Civilian Agencies Need Effective Planning to Eliminate Year-End Procurement Problems," and wish to comment upon it. In addition to the written comments which follow, more detailed comments were provided to representatives of your office at a meeting on July 7, 1980.

The Department continues to be disturbed by the section which deals with HUD's recording of obligations for its assisted housing programs. This question was raised by a letter report B-197274 which was issued by GAO on April 30, 1980. Despite lengthy discussions between our staffs, this issue has not been resolved. Enclosed is a copy of the Department's June 30 letter to the Chairman of the House Committee on Government Operations which accurately summarizes the status of the controversy. The Department objects to the inclusion of this issue in any report purporting to deal with "year-end procurement problems." It is an accounting issue which we are conscientiously seeking to resolve and has nothing whatsoever to do with the procurement process let alone an abuse of that process.

The GAO report constantly confuses overall agency spending with procurement. For example, on page 3.4 the report states: "If an agency maintains and releases substantial amounts of contingency reserves to operating activities about September 1st without a procurement plan, the shortcutting of the procurement processes with wasteful procurements may result." The next paragraph states that HUD follows this practice and displays a chart showing HUD with $.4 billion of unassigned funds in September 1979. This is nearly four times the amount HUD spent through the procurement process during the entire fiscal year.

The report alludes to problems in obtaining data from HUD and other agencies concerning 1978 and 1979 contract and grant obligations. If these problems had been called to our attention during the review,

usable data concerning contract actions could have been made available. The report indicates that the GAO staff constructed a contract register to deal with the problem at the Social Security Administration. No such attempt was made at HUD despite the relatively smaller size of HUD's procurement volume (about 1/10th that of SSA's during FY '79). Final FY '79 HUD procurement data has been available from the Federal Procurement Data Center for over two months. That data reveals the following obligational pattern for procurements over $10,000:

1st quarter obligations	$ 9,409,000
2nd quarter obligations	49,632,000
3rd quarter obligations	15,399,000
4th quarter obligations	24,823,000
Total FY '79 procurement over $10,000	$99,263,000

It is requested that at least this data be included in the report.

The above comments reflect some general concerns with the GAO report. It is hoped that these concerns and other specific comments provided at the July 7 meeting will be addressed in the final version of the report.

Thank you for the opportunity to review the report.

Sincerely,

William A. Medina
Assistant Secretary

Enclosure

APPENDIX VIII

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Administration
Washington, D.C. 20230

JUL 10 1980

Mr. Henry Eschwege
Director, Community & Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

The following comments on the draft report entitled "Civilian Agencies Need Effective Planning to Eliminate Year-End Procurement Problems", June 1980, are provided for your consideration in preparing the final report to the Congress. While the Department of Commerce is not mentioned predominantly, I would like to address those areas where we are mentioned and follow with what I consider constructive comments on statements, conclusions, and recommendations made in the draft report.

One principal concern is the need for a more balanced presentation of the reason for "year-end spending" and greater recognition of the positive steps that Federal agencies have taken to avoid unnecessary procurements. For example, page 2-2 simply notes the "huge reduction" of September obligations from FY 1978 to FY 1979, and on page 5-19 the report fails to do more than mention that cerain year-end procurement actions were "apparently properly awarded or resulted in savings to the Government." The report, taken as a whole, could well leave the impression that all fourth quarter obligations in excess of those made in the third quarter are bad per se and that these funds are being used for no good purposes. This implication is unfair to the great majority of Federal employees who are conscientiously trying to implement Congressionally mandated and approved programs as effectively as possible. It only adds to the current perception held by the public that Federal employees have little concern for the taxpayers' money, are inefficient and incompetent.

Moreover, better balance might be achieved if there were more than passing references to the increasing number of laws and regulations being attached to the procurement process. It would be useful, I believe, if the GAO did a report which analyzes the impact on the procurement process and their contribution to "year-end spending" of the various types of procurement regulations that have been adopted in recent years.

This is not to say there are no abuses of the Federal procurement process. Given the size, complexity and intense interest to many Federal programs, it is to the credit of the Federal employee that more don't exist. Such abuses, no matter how relatively few in number, must be eliminated and this Department is committed to that end. Nonetheless, given the emphasis placed upon GAO reports, everyone would be better served if there were a more balanced presentation of the problem.

David S. Nathan
Acting Deputy Assistant Secretary
Office of Acquisition, Grants and
Information Management

Attachments

Page 8-3: The Deputy Director for Procurement, believes that full implementation of a procurement planning system will achieve significant improvements in the efficient expenditure of funds. I support and encourage early implementation of the system. With an effective planning system we can, as the report recommends, initiate next year's procurement in the last quarter of the fiscal year. This would help to spread procurement actions and allow us to reduce fourth quarter obligations. A planning system requires time to fully implement. We have designed a system and we must now train personnel in the use of the system.

Page 8-3: MARAD use of P.L. 95-224 authority to investigate use of grants or cooperative agreements in lieu of contracts for shipbuilding and ship operating programs. MARAD advises that the statement in the second paragraph should be clarified to distinguish the subsidy programs from the R&D programs. Suggested wording is as follows:

> "In order to decrease the lead time for R&D awards, MARAD officials are considering the implementation of part of the Advanced Ship Development and Advanced Ship Operations programs under the Federal Grants and Cooperative Agreements Act of 1977 (P.S. 95-224)"
>
> We agree that consideration of the instrument used to effect an acquisition must consider the requirements of P.L. 95-224. Appropriate decisions would be made based upon the principal purpose and benefits tests stated in the law. If those tests are met, an assistance type of agreement would be in order. However, assistance agreements would not be used where improper and certainly not for the purpose of avoiding the procurement office and those management controls which promote good business practice.

Page 8-3: Central Procurement Office is a significant reason for year-end spending because of delays in processing awards. MARAD has no control after projects are submitted to the procurement office.

There admittedly have been delays in some MARAD procurements, just as there have been delays in processing procurement actions of other operating units within the Department. Delays are caused for a number of reasons not the least of which is available resources. Given the resource situation, actions are prioritized to assure placement of the most critical awards. Some requirements which are important to the Department but less critical than others don't make it. A procurement planning system which provides an incentive for management cooperation together with effective enforcement of rewards and penalties will measureably improve the capability for timely, effective procurement action.

APPENDIX VIII

With respect to the statement regarding MARAD's loss of control over awards after projects are submitted to the procurement office, I would point out the mutual responsibilities shared by the Program Office, MARAD in this case, and the DOC Central Procurement Office. MARAD and Central Procurement, as well as other entities e.g., audit activities, contractors and sometimes other Departments (Labor, SBA, GSA), have functions to perform during the procurement process which are generally outside of the control of the procurement offices. Experience tells us that during the normal procurement time-span from receipt of the requirement to award of a contract, the procurement office has complete control less than 50% of the time.

Page 3-16: With regard to the impact of pay raises on year-end spending, there is no discernable surge on the obligations of the Department of Commerce in July, August, and September as a result of the enactment of pay raise supplementals. The reason for this is that employee pay raises are effective the first full pay period in October and obligations are spread throughout the year.

It is true that the pay raise supplemental is normally not enacted until the fourth quarter. However, the Department apportions available funds on the expectation that the funds will be made available in the fourth quarter as allowed by section 43.2(c) of OMB Circular A-34. This section permits the Department to increase the availability of funds in the first three quarters and to decrease the fourth quarter availability by the amount of the proposed pay raise supplemental. Inasmuch as the Congress has not reduced pay raise supplementals in the past unless we have told them they were no longer needed, there has been no need to hold other funds in reserve pending enactment of the supplemental.

Pages 6-9, 6-11: The report expresses support for the proposed (HR 4717) 20% limitation on obligations in the last two months of the fiscal year. On page 6-8, the report recognizes that the surge in spending could occur at an earlier date. I would expect the August/September 20% limitation to result in a surge of obligations in July barring other management controls. This consideration is not effectively dealt with in the report.

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Another analysis that requires more attention is the fact that many of the proper year-end awards, i.e., those with long lead times, are of significantly large dollar amounts. This means that one such award in August or September can be a significant part of the permitted 20%. It is impossible to schedule procurement actions precisely. The slippage of two or three procurements worth a couple of million dollars each from scheduled July award into August or September could create serious management problems in determining which contracts would then be awarded in August/September - i.e., one or two of the big ones or 20 or 30 smaller ones. The only suggestion for dealing with this problem is on page 6-11 where the report expresses that the 20% limit must be accompanied by an effective advance procurement planning system along with other management controls to even out the workload. I believe this concept is substantially neglected and oversimplified.

Page 4-4: The report speaks to contract modifications as a means used to avoid the formal and lengthy contract award process. The report fails to make the point that "new work" can be procured no more quickly by modification than by new contract. In either instance we must go through the process of a new procurement. The contract or modification is the culmination of this process. The GAO report is suggesting that most modifications are being used inappropriately in order to effect year-end obligations, i.e., procuring noncompetitively rather than on a competitive basis, or using a change order inappropriately. I would suggest that the GAO clarify the modification issue.

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