United States General Accounting Office

GAO

Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate

July 1998

YEAR-END SPENDING

Reforms Underway But Better Reporting and Oversight Needed

GAO

United States
General Accounting Office
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Accounting and Information
Management Division

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July 31, 1998

The Honorable Susan M. Collins
Chairman
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United State Senate

Dear Madam Chairman:

In fiscal year 1980, the Senate Subcommittee on Oversight of Government Management held hearings and issued a report, Hurry-Up Spending,[1] to address problems with federal spending practices and the award of government contracts. The Subcommittee found that the rush to obligate expiring funds before the end of the fiscal year frequently resulted in a lack of competition, poorly defined statements of work, inadequately negotiated contracts, and the procurement of low-priority items or services. This report responds to your request that we outline actions taken to correct these management weaknesses. In addition, you asked us to provide quarterly obligation[2] data for selected departments and agencies to determine if fourth quarter obligations were higher than obligations in earlier quarters of the fiscal year.

Results in Brief

Changes in the budget environment and procurement reforms have affected the opportunity and need to obligate funds quickly at year-end. Agencies spend far less today than they did in 1980 on providing goods and services directly, as payments to individual beneficiaries and grants to state and local governments have increased. This trend, combined with limits on discretionary spending, has significantly changed the budget environment for most agencies. At the same time, Congress has made funds available for longer periods for many agencies, which reduces the pressure to spend funds at the end of each year. In addition, systemic procurement reforms addressed most of the issues raised in the Subcommittee's report although problems persist in certain agencies and with some procurements. Our work and that of others indicates that today there are more safeguards against unplanned year-end spending and, in

[1]Hurry-Up Spending. A report prepared by the Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs, July 23, 1980.

[2]Obligations are recorded when the government makes a firm commitment to acquire goods or services. In general, they consist of orders placed, contracts awarded, and similar transactions.

most discretionary programs, fewer resources available for low-priority purchases than in 1980.

Despite these changes, it is difficult to assess the patterns of spending during the year because reported quarterly budget execution data are not reliable. Without complete and timely information for oversight, the Office of Management and Budget (OMB) and other decisionmakers do not have an accurate assessment of the financial status of federal programs during the year. Even at year-end, there are significant differences in three comparable sets of data that agencies report to OMB and the Department of the Treasury. Although OMB officials stated that a new system they have built jointly with Treasury to collect year-end data starting in fiscal year 1999 should resolve or greatly alleviate the differences in year-end budget data, more work is needed to assure compliance with the requirement for quarterly data. Agencies' failure to report and reconcile budget execution information mirrors broader financial management problems found in our financial audit of the fiscal year 1997 Consolidated Financial Statements of the United States Government.[3]

Background

Wasteful year-end spending can occur when agencies rush to use funds at the end of the fiscal year. This is often an attempt to spend funds that would otherwise expire, meaning they would no longer be available for new obligations after the fiscal year ends.

In its 1980 report, the Subcommittee recognized that higher fourth quarter obligations may not indicate a problem with wasteful spending. The Subcommittee noted that spending at year-end may be the result of legitimate, planned, and worthwhile spending intended by Congress. However, the Subcommittee found numerous examples in which agencies took short cuts in the last few weeks of the fiscal year that led to questionable contracts. Hurry-up procurement practices resulted in the purchase of millions of dollars worth of goods and services for which there was no demonstrated current need. The Subcommittee found that to spend quickly, the government frequently paid inflated prices, incurred higher administrative costs for overtime, and awarded contracts that were not in the government's best financial interest. At the time the Subcommittee issued its 1980 report, civilian and defense agencies operated under separate procurement systems with different authorities and regulations. Agencies were expected to use competition to the

[3]Financial Audit: 1997 Consolidated Financial Statements of the United States Government (GAO/AIMD-98-127, March 31, 1998).

maximum extent practicable, but there was no statutory requirement for the justification and approval of sole-source contracts.

Our prior work on year-end spending has shown that problems occurred in the past when budget execution was not monitored effectively. Periodically, Congress has asked that we review and report on agencies' rates of obligations.[4] A continuing theme of these earlier reports was the questionable quality of the data reported to Treasury and OMB. In our earlier work, we used data published in the quarterly Treasury Bulletin, which was aggregated by department, agency, and object classification, that is, by items of expense. The source of this information was Treasury's Financial Management Service (FMS) Standard Form (SF) 225 - Report on Obligations. In December 1995, according to Treasury officials, the reporting requirement and the resulting data published in the Treasury Bulletin were eliminated to reduce the reporting burden on agencies.

OMB continues to require that agencies report their quarterly obligations on the SF 133 - Report of Budget Execution (SF 133), approximately 20 days after the close of each calendar quarter. Unlike the SF 225, obligations are not shown by object classification. Agencies are also expected to reconcile their year-end SF 133 report with comparable data provided to the Department of the Treasury on the FMS 2108 - Year-End Closing Statement (FMS 2108) and the SF 224 -Statement of Transactions (SF 224). These reports show budget execution data for each appropriation or fund account established by Treasury for a specific period of availability, i.e., annual, multiyear, or without fiscal year limitation.

Scope and Methodology

To identify reforms in procurement and management practices, we reviewed major legislation enacted since the Subcommittee's 1980 report was published. Reforms include the Competition in Contracting Act of 1984, the Government Performance and Results Act of 1993, the Federal Acquisition Streamlining Act of 1994, and the Clinger-Cohen Act of 1996. We also interviewed knowledgeable OMB and inspectors general (IG) staffs to ensure that we had a comprehensive view of these reforms, to identify additional administrative efforts, and to obtain multiple perspectives on whether improper year-end spending was a significant problem.

[4]Correspondence to Representative Byron L. Dorgan transmitting Tables of Gross Federal Obligations for Fiscal Years 1985-1990 by Object Class for the Major Departments and Agencies (July 12, 1991); Federal Year-End Spending Patterns for Fiscal Years 1982, 1983, and 1984 (GAO/AFMD-85-75, Revised November 4, 1985); and Federal Year-End Spending: Symptoms of a Larger Problem (GAO/PAD-81-18, October 23, 1980).

To collect current examples of problems in federal contracting, we reviewed our work on federal contract management[5] and IG semiannual reports dated from fiscal years 1995 through 1997 for 10 major departments and agencies. We looked for examples of problem procurements that paralleled concerns identified in the Subcommittee's report. We were interested in reports that attributed a rush to obligate funds at year-end as a cause for improper contracting practices. We reviewed all IG semiannual reports and selected additional IG reports from fiscal years 1995 through 1997 for the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Housing and Urban Development, the Interior, and Transportation, and for the National Aeronautics and Space Administration (NASA) and General Services Administration (GSA). Additional details on agencies for which we have identified contract management as a high-risk area—Defense, Energy, the Environmental Protection Agency (EPA), and NASA—with corresponding examples from IG reports, are included in appendix I.

For data on agencies' obligation rates, we obtained an automated OMB report containing detailed budget execution information provided by agencies through Treasury's Government On-Line Accounting Link System (GOALS). Using agency-reported SF 133 year-end obligation data, we calculated quarterly rates of spending for fiscal year 1997, and identified examples of incomplete reporting by agency and bureau. In those cases where fourth quarter cumulative data were missing, we included cumulative data from the most recent quarter. In a second analysis, we compared these data with budget formulation data published in the prior year column of the President's Fiscal Year 1999 Budget. We did not independently verify the data that agencies provided to OMB.

Our work was performed in Washington, D.C., from October 1997 through March 1998 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Director of the Office of Management and Budget or his designee. On July 14, 1998, the Assistant Director for Budget; the Chief, Budget Concepts Branch of Budget; and their staff provided us with comments, which are discussed in the "Agency Comments and Our Evaluation" section.

[5]Our examples were taken from our High-Risk Series, which identified contract management as a high-risk area at several civilian agencies and the Department of Defense. High-Risk Series: An Overview (GAO/HR-97-1, February 1997); High-Risk Series: Quick Reference Guide (GAO/HR-97-2, February 1997); High-Risk Series: Defense Contract Management (GAO/HR-97-4, February 1997); and High Risk Series: Department of Energy Contract Management (GAO/HR-97-13, February 1997).

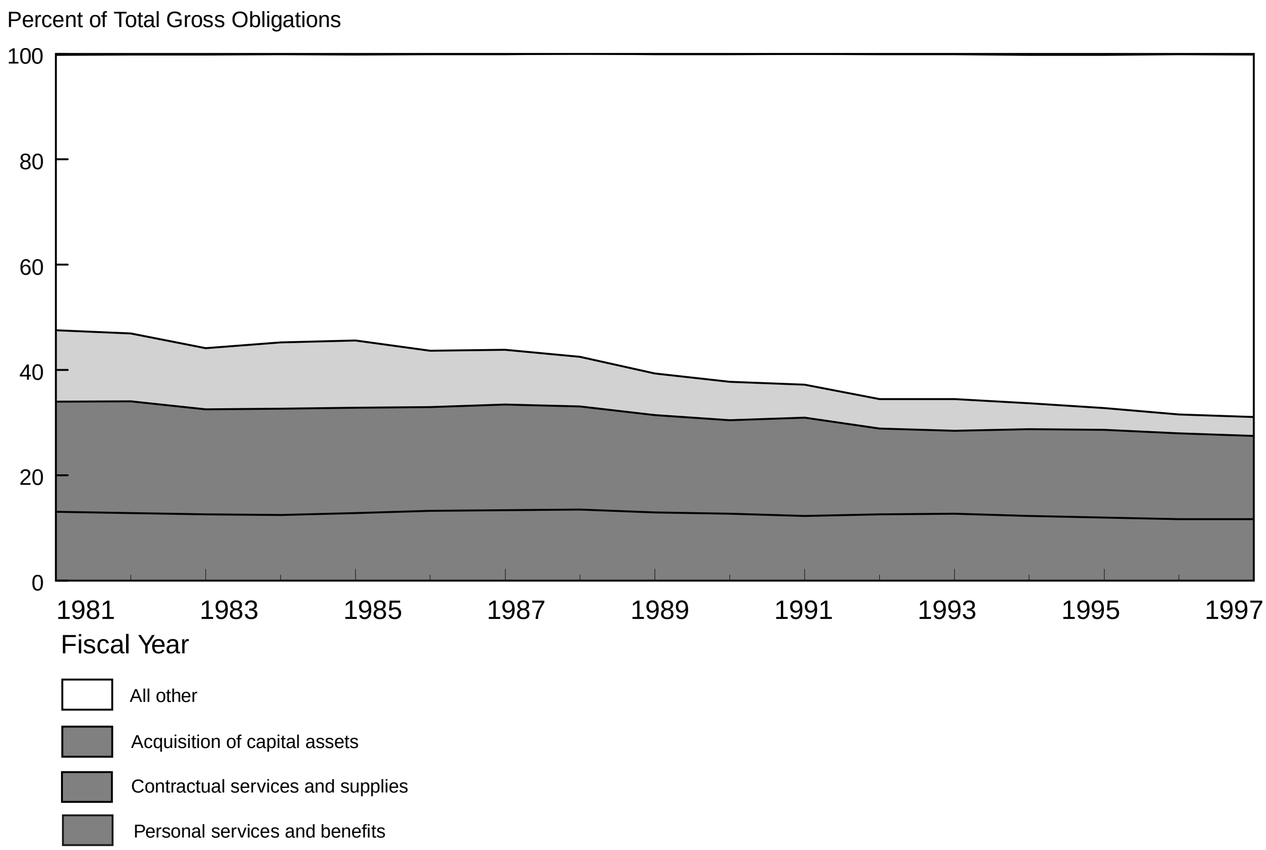
Potential for Improper Year-End Spending Has Been Constrained

Changes in the budget environment and procurement reforms have reduced the potential magnitude of problems with year-end spending. Tight fiscal controls coupled with requirements for full and open competition and advance planning make it less likely that year-end spending will lead to sole-source or unplanned procurements. This is not to suggest that improper year-end spending no longer occurs or that the procurement system cannot be improved further. We have identified contract management as a high-risk area for certain agencies, and IGs continue to find individual contracts that are poorly executed or monitored.

Changes in the Budget Environment Affect Year-End Spending

Fewer funds, which have been made available for more than 1 year, reduce the opportunity and need to spend funds quickly at year-end for many agencies. Increasingly, federal government spending is made up of direct payments to individuals or grants to states not subject to year-end spending pressures. Correspondingly, funding for agency operating expenses, e.g., costs for federal personnel, equipment, supplies, printing, and contractual services, continues to decline as a share of total spending. As illustrated in figure 1, funding for agency operations has decreased from 48 percent of total gross obligations in fiscal year 1981 to 31 percent in fiscal year 1997.

Figure 1: Operating Expenses of Government as a Share of Total Gross Obligations



Deficit reduction legislation reinforced this trend by placing annual limitations on the one-third of federal spending that is controlled through the appropriations process—and that includes most government day-to-day operations. At the same time, appropriators have made funds available for more than 1 year. Today, approximately two-thirds of budget accounts on an annual appropriations cycle have some funds available for more than 1 year or available until spent without fiscal year limitation.

Agencies have been able to extend some contracts across fiscal years even though their funding is appropriated annually. Recently, the National Defense Authorization Act for Fiscal Year 1998 broadened the authority of the Department of Defense (DOD) to obligate appropriated funds for severable service contracts that cross fiscal years if the contract periods do not exceed 1 year. As part of this provision, Congress has asked that we report on any abuses of the provision, including whether they have occurred in an attempt to circumvent year-end spending limitations.[6] Comparable authority was given to civilian agencies in the Federal Acquisition Streamlining Act of 1994.

Procurement Changes Address the Subcommittee's Concerns

OMB officials stated that in their view, improper or unnecessary contracts associated with the rush to spend funds at year-end are far less of a problem than they once were due to open competition requirements, improved agency procurement planning, and fewer available resources. The nine IG officials we contacted shared this view. Out of over 3,200 IG reports reviewed, only 1 report explicitly identified a relationship between poor contracting practices and the need to spend funds quickly at year-end. However, GAO and the IGs continue to find weakness in some agencies' handling of contract management and with individual procurements. In our High-Risk Series, we identified a number of agencies with poor contract management practices, such as poor planning and inadequate oversight, that make them vulnerable to some of the same problems with wasteful year-end spending that were identified in the Subcommittee's 1980 report. See appendix I for a summary of our findings and examples taken from IG reports for those agencies for which we identified contract management as a high-risk area.

Despite problems with some agencies, the procurement system has undergone significant changes since the Subcommittee's report and now substantially incorporates the Subcommittee's recommendations. The Competition in Contracting Act of 1984 (CICA),[7] for example, provided a more common procurement system for defense and civilian agencies, established a "full and open competition" standard more rigorous than the "maximum practicable competition" that preceded it, and included sole-source approval and procurement notice requirements in the procurement statutes. The conference report on CICA suggests that some of the act's changes to the procurement system were intended to address the year-end spending concerns raised by the Subcommittee.[8]

[6] See H. Cong. Rep. 105-340, 771-772.

[7] Public Law 98-369, Div. B, Title VII, 98 Stat. 1175 (1984).

[8] See, e.g., S. Rpt. 98-50, 98th Cong., 1st Sess. pgs. 7, 12-13. The legislative history describes the 3 days of hearings held by the Subcommittee on year-end spending that concluded that there was "a relationship between negotiating under the crunch and unnecessary noncompetitive contracting."

The Defense Acquisition Workforce Improvement Act (DAWIA)[9] addressed many of the Subcommittee's acquisition personnel-related concerns at DOD by requiring improvements in the qualifications, training, and career development of the defense acquisition workforce. Two more recent acts, the Federal Acquisition Streamlining Act of 1994 (FASA),[10] and the Clinger-Cohen Act of 1996 (CCA)[11] responded to Subcommittee concerns regarding contract personnel performance incentives. Other CCA reforms required comparable qualification and training standards for civilian agencies.

To illustrate the way in which changes to the procurement system have addressed the Subcommittee's concerns, table 1 associates the Subcommittee's recommendations with descriptions of statutory provisions that implement them in whole or in part.

[9]Public Law 101-510, Div. A, Title XII, 104 Stat. 1638 (1990).

[10]Public Law 103-355, 108 Stat. 3243 (1994).

[11]Public Law 104-106, Divisions D and E, 110 Stat. 642-703 (1996).

Table 1: Subcommittee Recommendations and Corresponding Reforms

Subcommittee recommendation	Corresponding reforms
Better planning and development of advance procurement agendas	CICA requires that agencies use advance procurement planning and market research in preparing a procurement, and prohibits noncompetitive procedures based on funding uncertainties or lack of planning justifications. CCA specifically requires the application of capital planning to information technology investments.
Restrictions on sole-source contracts	Under CICA, sole source acquisitions must be justified; the justification must include a description of efforts the agency may take to eliminate barriers to competition. Agencies must publish notices of all procurements over $25,000, with certain exceptions, and must consider all responses to notices of sole-source acquisitions. The basic principles of full and open competition have been maintained in subsequent procurement reforms.
Procedures for appraising civil service performance in contract management	DAWIA required the Secretary of Defense to develop and implement a program to improve the qualifications, training, and career development of the defense acquisition workforce. FASA required OMB to establish policies, to the maximum extent consistent with current law, to provide for pay for performance and performance consideration in promotion decisions for acquisition positions. CCA required qualification and training standards for civilian agencies comparable to DOD and encouraged career development and the use of performance compensation incentives.
Increased oversight and monitoring through a government contracts database	Executive agencies are required to establish and maintain a computer file containing records of all acquisitions above the simplified acquisition threshold for a period of 5 years. Agency material is to be transmitted to the General Services Administration for inclusion in the Federal Procurement Data System.[a]

[a]41 U.S.C. § § 405(d)(4), 417.

Procurement and management reforms continue to evolve and influence the issue of year-end spending. Two of the most significant procurement reforms were enacted within the last 4 years and other management reforms are in early phases of implementation. As a result, it is too early to assess their full impact or to determine what further refinements may be needed.[12] FASA was intended to simplify the procurement system and CCA added requirements for information technology capital planning and career development and performance incentives for non-DOD acquisition personnel.

In addition, management reforms outside of the strictly procurement sphere have influenced the procurement process, particularly procurement planning. The strategic planning provisions of the Government Performance and Results Act of 1993 (Results Act), require integration of capital procurement, budget, and program planning. The National Defense Authorization Act for Fiscal Year 1998 requires expanded use of streamlined micropurchase procedures in DOD.

Budget Execution Data Not Reliable

Reliable quarterly obligation rates for fiscal year 1997 for the major departments and agencies, as well as the government as a whole, were not available because of incomplete reporting of budget execution data. Additionally, there were significant differences in the three sets of data that agencies reported for fiscal year 1997. Data are reported in (1) final budget execution reports to OMB (SF 133), (2) the prior year column of the President's Fiscal Year 1999 Budget, and (3) Treasury's Fiscal Year 1997 Annual Report. OMB told us that the OMB and FMS project to merge these separate year-end reporting requirements will resolve or greatly alleviate the differences in year-end reporting data. However, it is less likely to address problems with quarterly reporting or ensure adequate oversight of budget execution during the fiscal year. Agencies' failure to report and reconcile budget execution information is another example of the broader financial management concerns we raised in our financial audit of the fiscal year 1997 Consolidated Financial Statements of the United States Government.[13]

Rates of Obligation Could Not Be Determined

Because agencies did not report complete quarterly budget execution data, we could not determine whether agencies obligated at a higher rate in the fourth quarter than in previous quarters of fiscal year 1997. Our review of OMB-provided agency quarterly budget execution reports (SF 133) showed significant gaps in all major agencies as a result of nonreporting. Of the 1,054 treasury accounts in major department and agencies that we reviewed, 332, or 32 percent, showed no information in

[12]Acquisition Reform: Implementation of Key Aspects of the Federal Acquisition Streamlining Act of 1994 (GAO/NSIAD-98-81, March 9, 1998).

[13]GAO/AIMD-98-127, March 31, 1998.

the first quarter. Although some programs may not incur obligations until later in the fiscal year, a similar comparison in the last quarter showed that 88, or 8 percent, of the accounts reported no cumulative obligations. Although OMB did not systematically follow up with nonreporting agencies during the year, it did publish a comparison of year-end differences in budget execution and formulation information for fiscal year 1997.[14] In addition to the nonreporting we identified, OMB found 114 accounts—or 10 percent of the accounts published in the President's Budget Appendix—that were expected to submit budget execution data on SF 133 submissions but did not. We found that three agencies—DOD, the Department of Energy, and the Department of Housing and Urban Development (HUD)—showed quarterly rates of obligations that were particularly misleading because nonreporting (1) was widespread, with Energy and HUD failing to report in two or more quarters for at least half of their total accounts, and (2) included accounts with significant resources.

Year-End Budget Execution and Formulation Data Differed Significantly

We found significant differences when we compared year-end budget execution obligation data with comparable data reported by agencies in formulating the President's Fiscal Year 1999 Budget. OMB Circular A-11 requires that agencies report consistent year-end data to Treasury for its Annual Report and to OMB for the final SF 133 - Report on Budget Execution and prior year information for the President's Budget. We found that of the 14 major departments, 5 reported total fiscal year 1997 obligations that were at least 50 percent higher in the President's Fiscal Year 1999 Budget than the amounts reported in their respective year-end SF 133s. Of the major departments and agencies, Education, HUD, and NASA each reported total obligations that were over 85 percent higher in the President's Fiscal Year 1999 Budget, while only DOD, Energy, EPA, and GSA reported essentially the same information to OMB and Treasury.

In its report,[15] OMB stated that the absolute value—that is, the combined over-reporting and under-reporting of fiscal year 1997 obligations shown on agencies' SF 133s compared with actual obligations reported in the President's Fiscal Year 1999 Budget—was $324 billion, a reporting difference of 15 percent. OMB reached conclusions similar to ours, that (1) data in the actual-year column in the President's budget request should

[14]Budget Review and Concepts Division, OMB, Differences in FY 1997 Formulation and Execution Data, March 1998.

[15]See footnote 14. OMB's report differed from our analysis because it (1) used more recent information—it reflected adjustments made through the first quarter of fiscal year 1998, (2) compared data only at an account level, and (3) included only those accounts with discrepancies of $5 million or greater.

agree with year-end budget execution data reported to OMB, but did not and (2) governmentwide, SF 133 data were understated when compared to data reported in the President's Fiscal Year 1999 Budget. According to OMB, governmentwide obligations were understated by a net $152 billion in the final fiscal year 1997 SF 133 reports.

A New Data System Is Unlikely to Resolve Quarterly Reporting Problems

FACTS II is a new data collection system that according to OMB, will satisfy most of its and FMS' year-end reporting requirements. Currently, agencies report accounting information, including the FMS 2108 - Year-End Closing Statement, through GOALS, Treasury's automated reporting system. This system is also used to transmit agencies' SF 133 reports to OMB, although Treasury does not verify the accuracy or completeness of this information. FACTS II will collect a single set of year-end data from agencies beginning in fiscal year 1999; OMB expects this to improve the link between budget execution data and prior year information in the President's Budget. Merging separate Treasury and OMB reporting requirements should eliminate discrepancies between budget execution and formulation data for the prior fiscal year because FACTS II will be the only source for this information. However, there is nothing in this change that fosters compliance with quarterly reporting requirements or the oversight of the budget execution process during the fiscal year.

Budget Execution Reporting Problems Reflect Broader Financial Management Concerns

Agencies' unreliable reporting and reconciliation of budget execution data mirrors problems with other financial information found in the first audit of the federal government's consolidated financial statements. For example, we found that government agencies reported hundreds of billions of dollars of assets that were not adequately supported by financial records. Also, several major agencies were not effectively reconciling their fund balances with Treasury accounts. For example, there were billions of dollars of unresolved gross differences between agencies' and Treasury's records of cash disbursements as of the end of fiscal year 1997. The accuracy of the appropriation and fund account balances reported on FMS 2108 - Year-End Closing Statements and SF 224 - Statements of Transactions, which are used to prepare the Treasury's Annual Report, depend on agencies properly reconciling differences reported by Treasury during the year.

Each agency will need to consider these reporting and reconciliation problems in order to prepare its Statement of Budgetary Resources and Statement of Financing for its financial statements beginning in fiscal year

1998. Agencies whose financing is wholly or partially from budgetary resources will need to report in these statements on the availability and status of these funds for the reporting period. Since the Statement of Budgetary Resources is budget rather than accrual-based, Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, requires that agencies reconcile obligations and outlays reported on the SF 133 with other financial accounting information, which is then included in the agency's audited financial statements. The Statement of Financing requires that agencies show the relationship between budgetary resources obligated for a federal program entity and its operations, and the net cost of operating that entity by reporting differences and reconciling proprietary and budgetary accounts. OMB has the lead responsibility, in consultation with the Chief Financial Officers Council and others, in developing the form and content of these statements and in ensuring that agencies comply with reporting requirements.

Observations

Since the Subcommittee's 1980 report, substantial reforms in procurement planning and competition requirements have changed the environment, as has the declining share of federal funds available for agency operations. Agencies may still be tempted to quickly spend funds that will expire, but year-end spending is unlikely to present the same magnitude of problems and issues as before.

Although agencies have the primary responsibility for ensuring that their budgets are executed and accounted for properly, our study revealed that the ability of Congress and OMB to oversee the rate and timing of federal spending across agencies is limited in the absence of complete and accurate reporting. In addition, it points to inadequate central oversight of the financial status of the federal government because of agencies' widespread reporting noncompliance. Even at year-end, budget execution data reported to OMB and year-end accounting data provided to Treasury do not agree for many agencies. The joint OMB and Treasury proposal to merge year-end reporting requirements through a shared database will eliminate the potential for discrepancies between reports, but by itself does nothing to increase compliance with quarterly reporting requirements or oversight of budget execution during the year.

OMB needs to reemphasize the existing OMB Circular A-34 requirement that agencies report budget execution information no later than 20 days after the close of the calendar quarter and investigate agency nonreporting or questionable reporting of quarterly and year-end data. OMB also needs to examine areas in which obligations vary significantly from planned or historical rates to ascertain the reasons for these differences and to monitor agencies' implementation of their Statements of Budgetary Resources and Statements of Financing, which should provide additional insights.

Recommendation

To improve oversight of agencies' execution of the budget, we recommend that the Office of Management and Budget reemphasize compliance with the OMB Circular A-34 requirement that agencies provide quarterly data no later than 20 days after the close of a calendar quarter, and examine quarterly reporting by agencies that varies significantly from planned or historical rates. We also recommend that the Office of Management and Budget continue its efforts to integrate budget and accounting reporting at year-end and report periodically on progress made.

Agency Comments and Our Evaluation

In oral comments, OMB stated that in the last 3 years it has taken several steps to improve the quality of budget execution data. OMB officials said that they have actively directed a Treasury contractor to build a new SF 133 data collection system that has been used since 1996 to allow OMB to access data directly. Using these data, OMB staff developed reports that present the data in different ways to assist analysis by OMB examiners and agency analysts. In addition, OMB has embarked on a training program and is continuing to provide extensive training within OMB and to the agencies on the value of SF 133 data.

OMB's increased attention to monitoring budget execution data is important and we support its effort to increase the quality and use of this information. OMB's inclusion of crosswalks in recent budget formulation and execution circulars that show data relationships between year-end reports should be particularly helpful to agencies. Persistent attention, including follow-up by OMB examiners when agencies either do not provide data, do not provide data timely, or when data are questionable, should signal the need for agencies to take budget and financial management reporting and reconciliation requirements seriously.

OMB officials also provided clarifying comments, which we have incorporated in the report where appropriate.

We are sending copies of this report to other interested Members of Congress and the Director of the Office of Management and Budget. We will make copies available to others on request. Please call me at (202) 512-9573 if you or your staff have any questions. Major contributors to this report are listed in appendix II.

Sincerely yours,

Paul L. Posner

Paul L. Posner
Director, Budget Issues

Contents

Abbreviations

BIA	Bureau of Indian Affairs
CCA	Clinger-Cohen Act of 1996
CICA	Competition in Contracting Act of 1984
DAWIA	Defense Acquisition Workforce Improvement Act
DOD	Department of Defense
EPA	Environmental Protection Agency
FAR	Federal Acquisition Regulations
FASA	Federal Acquisition Streamlining Act of 1994
FMS	Financial Management Service
GOALS	Government On-Line Accounting Link System
GSA	General Services Administration
HUD	Department of Housing and Urban Development
IG	inspector general
NASA	National Aeronautics and Space Administration
OMB	Office of Management and Budget
SF	Standard Form

High-Risk Contract Management Agencies

In 1990, we began reporting on federal program areas that were at risk because of vulnerabilities to waste, fraud, abuse, and mismanagement. We periodically report on agencies' progress in correcting deficiencies and on where additional actions need to be taken. Our most recent High-Risk Series, published in February 1997, includes high-risk contract management in certain civilian agencies and DOD. Since the problems associated with wasteful year-end spending—poor planning, insufficient competition, and inadequate contract oversight—can occur at any time during the fiscal year, we have included the following summary of our findings regarding high-risk agencies based on our work. We also include some related examples drawn from our reviews of IGS' reports.

We have identified contract management as a high-risk area at DOD, Energy, NASA, and EPA and noted long-standing problems with their contract payment and oversight functions. For example, as noted in our 1997 High-Risk Series, we found that in recent years, DOD experienced numerous problems in making accurate payments to defense contractors. We noted that while DOD had taken steps to address its payment problems, it should also (1) improve and simplify its contract payment system and (2) further strengthen its oversight of contractor cost-estimating systems. Doing so would enable DOD to achieve effective control over contract expenditures.[1] The DOD IG also found examples of overpayment or unreasonable pricing. In fiscal year 1996, the DOD IG reported that overpayments of $43.6 million were made to a contractor because requests for progress payments had not been prepared properly.[2] In another case, the IG found that various defense construction and supply centers had paid $15.8 million more than they should have on 63 procurements of spare parts.[3]

We also designated Energy's contract management as high risk because its extensive reliance on contracting and history of inadequate oversight of contractors failed to protect the federal government's financial interests. In our 1997 High-Risk Series, we reported that Energy had made progress in developing an extensive array of policies and procedures, such as publishing a new regulation adopting a standard of full and open competition for the award of its management and operating contracts. We concluded that the department would need to continually monitor the

[1] High-Risk Series: Defense Contract Management (GAO/HR-97-4, February 1997).

[2] Office of the Inspector General, Department of Defense, Contract Financing of the Family of Medium Tactical Vehicles Program, 1996 (96-228).

[3] Office of the Inspector General, Department of Defense, Price Challenges on Selected Spare Parts, 1995 (96-035).

award of these contracts to maintain its momentum and priority in implementing contract reform.[4] During 1997 and 1998, the Energy IG reported on problems with the performance-based incentives for fiscal years 1995 and 1996 at four sites. They ranged from incentive payments in excess of the cost of labor and materials for the work performed to the award of incentive fees for work either not completed or for work done prior to establishing the incentive program.[5] In addition, the IG for Energy reported during 1997 on its assessment of the implementation of performance-based incentive contracts. In its report, Energy's IG raised concerns about insufficient formal guidance for developing and administering performance incentives and the lack of criteria for measuring performance or allocating fees.[6]

EPA has had long-standing problems in controlling contractors' charges, particularly in its Superfund program. In fact, we have repeatedly reported that EPA has not overseen its cost-reimbursable contracts to prevent contractors from overcharging the government. We also found that although EPA had recently strengthened its management and oversight of Superfund contractors, the agency remained too dependent upon contractors' own cost proposals to establish the price of cost reimbursable work. Thus, we suggested that EPA could better estimate the costs of contractors' work, use the estimates to negotiate reasonable costs, provide contractors with appropriate incentives to hold down their administrative expenses, and increase the timeliness of contract audits.[7]

Although NASA has improved its contract and procurement operations by placing greater emphasis on contract cost control and contractor performance, we and NASA's IG continue to identify problems in NASA's contract management and opportunities to improve procurement oversight. For example, NASA's IG concluded that one NASA-negotiated contract included $22.7 million in financing, insurance interest, and termination liability insurance costs that are generally prohibited under Federal Acquisition Regulations (FAR).[8] In 1997, we suggested that NASA identify its contract management problems early on so they could be

[4]High-Risk Series: Department of Energy Contract Management (GAO/HR-97-13, February 1997).

[5]Office of Inspector General, Department of Energy, Inspection of the Performance Based Incentive Program at the Richland Operations Office, 1997 (IG-0401).

[6]Department of Energy, Assessment of the Use of Performance-Based Incentives in Performance-Based Management and Management and Integration Contracts (October 1997).

[7]High-Risk Series: An Overview (GAO/HR-97-1, February 1997) and High-Risk Series: Quick Reference Guide (GAO/HR-97-2, February 1997).

[8]Office of the Inspector General, National Aeronautics and Space Administration, Commercial Middeck Augmentation Module (CMAM) Contract Negotiated Price, 1995 (KE-95-009).

evaluated, monitored, and corrected before becoming systemic. We also suggested that additional agencywide guidance could help NASA ensure more consistent and thorough coverage of the procurement cycle.[9] While recent reforms have allowed agencies the option of making small purchases by credit card, a NASA IG survey report entitled NASA Procurement Initiatives, Credit Card Program found that NASA split a $168,000 computer procurement into 80 single purchases, enabling each purchase to fall below the Government Credit Card limit of $2,500. The IG concluded that NASA violated the FAR prohibition against splitting requirements. Similar problems were reported by IGs at Commerce, Energy, and Transportation.

Only one of the IG reports we reviewed explicitly identified a relationship between poor contracting practices and the need to spend funds quickly. In its report, Interior's IG detailed the results of its evaluation of the Bureau of Indian Affairs' (BIA) road construction projects.[10] The IG reported that some of BIA's road projects were poorly designed and planned because BIA rushed to award contracts to avoid returning unspent funds to the Federal Highway Administration at the end of the fiscal year. The report concluded that BIA's practices led to construction delays that increased costs by $3.3 million.

[9] GAO/HR-97-1, February 1997 and GAO/HR-97-2, February 1997.

[10] Office of the Inspector General, U.S. Department of the Interior, Road Construction Program, Bureau of Indian Affairs, 1996 (96-I-870).

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