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It is not possible to determine the extent of the use of consultants by the Federal Government, at what costs, and for what purposes. Five sources of centralized information were identified: The Senate Committee on Appropriations; the Senate Subcommittee on Reports, Accounting, and Management; two divisions of the Office of Management and Budget (OMB); and the Civil Service Commission (CSC). Although data available at these sources vary considerably, two data systems being developed have the potential of improving the information. The Office of Federal Procurement Policy, OMB, is developing an automated system that will report much information on each Government consultant contract over \$10,000 and provide some information on contracts under that amount. CSC is developing a system to replace its personnel data file which will contain more data on Federal employees and appointed consultants. Lack of agreement by agencies on definitions of consultants, with more than 20 different definitions noted, has made it impossible to determine how many consultants are used by the Federal Government and at what cost. The Comptroller General has suggested that an information system, rather than a reporting system, be applied to agencies to identify consultant usage. He also recommended modification of the definition of consultant, use of uniform data elements in data systems, and that OMB should be the single authority for prescribing the standard definition to be applied, data and files to be maintained, and reports to be prepared. (HTW)

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04319



*STUDY BY THE STAFF
OF THE
U. S. GENERAL ACCOUNTING OFFICE*

**Government Consultants:
Standard Definition And
Uniform Data Needed**

It is not now possible to determine how many consultants are used by the Government, at what cost, and for what purposes. This lack of information shows the need for a Government-wide information system that can provide uniform, reliable data on the cost and extent of consultant services.

There is also no accepted Government-wide definition of consultants or single authority responsible for prescribing data to be maintained.

This study describes the incomplete statistical data currently available on how many consultants the Government uses, what they do, and how much their services cost. It summarizes data available at five sources. Taken together they comprise the best information available on the Government's use of consultants.

B-179810

PREFACE

Recent actions by the Congress and the administration to improve the efficiency and effectiveness of the Government's use of consultants are encouraging. Our study should assist them in their efforts.

Three centralized data systems, currently in operation or planned to meet other Government information needs, could provide a large part of the statistical data needed.

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SUMMARY

Responding to growing congressional concern over the Federal Government's increasing use of consultants and lack of reliable information on it, we did research to identify and describe all existing sources of centralized information. We found five sources that have centralized information on more than one agency's use of consultants. The data available at these sources clearly show that it is not now possible to determine how many consultants are used by the Government, at what cost, and for what purposes.

The term "consultant service" refers to a broad spectrum of services provided by individuals, firms, educational institutions, research foundations, and other organizations. These services are secured primarily by contract, appointment to the civil service, or service on a Federal advisory committee, and to a lesser extent by grants, pursuant to a maze of regulations and statutes.

During our research we noted more than 20 different definitions used by agencies. One definition often would include a specific service excluded from another definition. Until a standard definition is adopted and applied uniformly, it will not be possible to determine how many consultants are used by the Federal Government and at what cost.

The five data sources, discussed in chapter 3, are a Senate committee, a Senate subcommittee, two divisions of the Office of Management and Budget (OMB), and the Civil Service Commission (CSC).

--Since 1974 the Senate Committee on Appropriations has required several agencies, including the Department of Health, Education, and Welfare, to report semiannually on their expenditures for consultant services in excess of \$25,000. These reports showed that the agencies did not use consistent criteria for reporting consultant services to the Committee.

--The Subcommittee on Reports, Accounting, and Management, Senate Committee on Governmental Affairs, sent a questionnaire in October 1976 to 178 departments and agencies asking for information on their use of consultants and other contracted services. In analyzing agency responses to the questionnaire, the Congressional Research Service noted that

"Aside from the definition found in the Federal Personnel Manual (FPM), there appears to be no standard, government-wide definition of a party to a nonpermanent arrangement for providing professional services to the Federal Government."

- The Committee Management Secretariat, Office of Management and Budget, maintains information on the cost and number of Federal advisory committees subject to Public Law 92-463. A separate index published by the Senate Committee on Governmental Affairs provides the name and affiliations of each committee member. Since 1972 the number of committees in existence has decreased considerably, but the cost has more than doubled.
- On May 12, 1977, the President directed the heads of 89 executive departments and agencies to report to OMB on consulting arrangements being used. The President said that many agencies use consultants "excessively, unnecessarily, and improperly" and directed each agency to eliminate all inappropriate or unnecessary consultant services. Sixty-four agencies reported expenditures of nearly \$1.8 billion for almost 34,000 separate consultant arrangements.
- CSC operates the Central Personnel Data File that contains limited information on individuals appointed as consultants or experts and on some members of Federal advisory committees. In recent years the number of appointed consultants has increased steadily.

CSC defines consultant and consultant position in its Federal Personnel Manual (FPM) chapter 304 as follows:

"Consultant means a person who serves as an adviser to an officer or instrumentality of the Government, as distinguished from an officer or employee who carries out the agency's duties and responsibilities. He gives his views or opinions on problems or questions presented him by the agency, but he neither performs nor supervises performance of operating functions. Ordinarily, he is expert in the field in which he advises, but he need not be a specialist. His

expertness may consist of a high order of broad administrative professional, or technical experience indicating that his ability and knowledge make his advice distinctively valuable to the agency.

"Consultant position means a position requiring the performance of purely advisory or consultant services, not including performance of operating functions."

This definition defines a consultant as one who serves in an advisory capacity only, who may not be used to participate in an agency's operations in any way, and applies to individual consultants employed by agencies subject to the Civil Service laws and regulations.

Although the data available at these sources vary considerably in scope, reliability, and completeness, taken together they comprise the best information available today on the Government's use of consultants. Two data systems being developed--the Federal Procurement Data System and the Federal Personnel Management Information System (summarized below and discussed in ch. 4)--have the potential of improving this information.

--The Office of Federal Procurement Policy, OMB, is developing an automated Federal Procurement Data System that will report a great deal of information on each Government consultant contract over \$10,000. Considerably less information will be reported on consultant contracts under \$10,000. Either the Department of Defense or the General Services Administration will operate the system, scheduled to become operational October 1, 1978.

--CSC is developing a Federal Personnel Management Information System to replace its Central Personnel Data File in the 1980s. This system will contain considerably more data on each Federal employee and should provide more detailed, useful information on appointed consultants. Currently CSC is deciding what data elements should be included in the system. It is not yet known specifically what data will be available on consultants.

Before we completed our research, the Subcommittee on Reports, Accounting, and Management, Senate Committee on Governmental Affairs, held hearings on the need for a uniform

reporting system for employing consultants. At the request of the Chairman, the Comptroller General testified on September 15, 1977. (See app. I.)

The Comptroller General suggested that an information system, rather than a reporting system, be consistently applied to all agencies to identify the consultants and experts used and types of arrangements under which, at what cost, and for what type of service their services are acquired. He also suggested that (1) the definition of consultant in FPM could be modified and adopted for Government-wide use to apply to all types of consultant arrangements, (2) certain uniform data elements in three existing or planned data systems could provide a large part of the information needed, and (3) OMB be the single authority for prescribing the standard definition to be applied, data and files to be maintained, and reports to be prepared.

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ABBREVIATIONS

CPDF	Central Personnel Data File
CSC	Civil Service Commission
FRDS	Federal Procurement Data System
FPM	Federal Personnel Manual
FPMIS	Federal Personnel Management Information System
HEW	Department of Health, Education, and Welfare
OMB	Office of Management and Budget

CHAPTER 1

BACKGROUND

FASIC AUTHORITY

The principal authority governing the use of experts and consultants in the Federal service originally was enacted in section 15 of the Administrative Expenses Act of 1946 and now is found in 5 U.S.C. 3109. This section provides in part that

"When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof."

Specific statutory authority is provided individual agencies in continuing legislation or appropriation acts. There are more than 100 statutory authorities which often provide broad exceptions to the maximum pay and length of service provisions authorized by 5 U.S.C. 3109.

CIVIL SERVICE COMMISSION POLICY AND INSTRUCTIONS

The Civil Service Commission's (CSC's) policy views the proper use of experts and consultants as a normal, legitimate, and economical way to improve Government service and operations.

While a consultant ordinarily should be an expert, an expert may serve other than in an advisory capacity. CSC has issued instructions on the proper use of experts and consultants in Federal Personnel Manual (FPM) chapter 304. These instructions apply wherever there is an employee-employer relationship between a consultant and the Government. (See ch. 2.)

FPM chapter 304 provides that experts and consultants may be used to obtain

- specialized opinions unavailable in agencies;
- outside points of view on administrative or technical issues needed to avoid limited judgment;

- advice on developments in industry, college, university, and foundation research;
- opinions of noted experts whose national or international prestige contributes to especially important projects' success;
- advisory participation of citizens to develop or implement Government programs that by their nature or by statute call for citizen participation;
- services of specialized persons who are not needed full time or who cannot serve regularly or full time.

FPM chapter 304 also provides that an agency may appoint an expert or consultant only with prior approval by CSC except when (1) CSC concurs in an agency opinion that a statute excepts the employment from CSC jurisdiction or (2) CSC and the agency have an agreement that permits employment without prior CSC approval of each case. As of May 18, 1977, 61 agencies had agreements with CSC which give CSC insight into how agencies intend to use experts and consultants.

CSC monitors appointments of individual experts and consultants to insure that 5 U.S.C. 3109 is not used as a device to circumvent the merit system of employment. Since section 3109 does not directly authorize CSC to regulate these specialists, CSC reviews their use through the implied authority drawn from its mission to insure the integrity of civil service and classification laws and to guard against misuse of illegal exceptions from those laws. The scope of this implied authority is narrow. It centers around determining whether a position is a temporary or intermittent consulting position and whether an individual is qualified to be appointed as a consultant.

Under section 3109, CSC has no jurisdiction over agencies on how experts and consultants are selected, who is selected, how many are employed, and how much they are paid. These are all the responsibility of the employing agency within the requirement of the authorizing statute.

PROPOSED LEGISLATION

The present legislative basis by which agencies use experts and consultants has been of concern to CSC. To

resolve these concerns in 1975, CSC proposed legislation to amend 5 U.S.C. 3109 which would have

- eliminated reference to procuring services of individuals by contract,
- reduced the duration of service under the authority from 1 year to 130 days within any period of 365 consecutive days,
- eliminated the requirement for agencies to have a separate statutory authority before they can use the general statutory authority,
- increased (or reduced--for the few agencies authorized to pay a higher rate) maximum daily pay rate from a GS-15 step 10 position to a grade GS-18 position for individuals in all occupations subject to the classification and pay laws,
- assigned to CSC the regulatory role over agencies' use of experts and consultants, and
- included new definitions of "consultant" and "expert."

CSC sent this proposed bill to the Office of Management and Budget (OMB) and other Federal agencies for comment. A CSC official said that many agencies responded favorably to the proposal, indicating that it was a step toward achieving better control over the use of experts and consultants. However, several agencies indicated that the revisions were too restrictive and would limit their ability to attract to Government service highly qualified talent in a wide variety of fields. This 1975 proposed bill was not forwarded to the Congress and CSC took no further action at that time. A CSC official said that CSC is currently drafting a new proposal to revise 5 U.S.C. 3109.

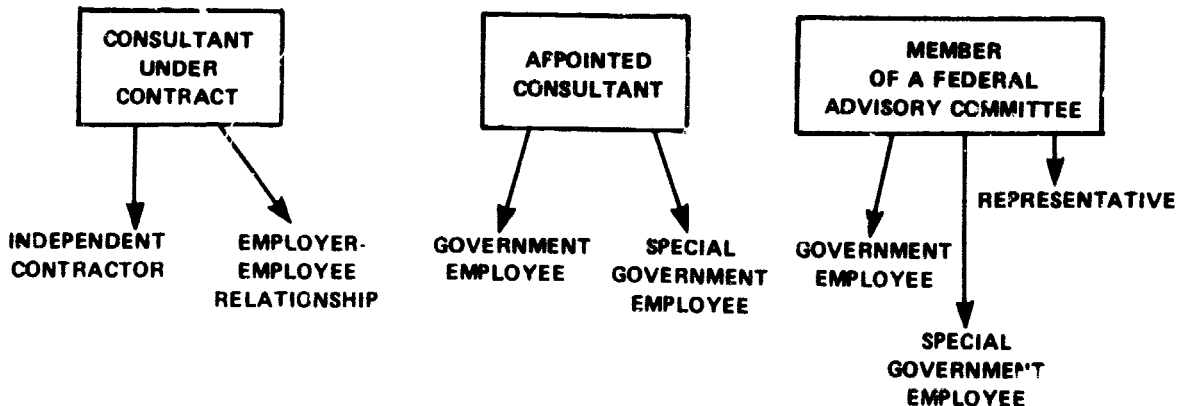
CHAPTER 2

GOVERNMENT-CONSULTANT RELATIONSHIP

Agencies may acquire consultant services under 5 U.S.C. 3109 either by contracting with firms, individuals, educational institutions, foundations, or other organizations or by hiring individuals as employees. Different Federal laws and regulations apply to consultants, depending on the relationship that exists between the consultant and the Government.

At least four different relationships are possible. Consultants may be (1) independent contractors, (2) Government employees, (3) special Government employees, or (4) advisors serving in a representational capacity.

Since CSC has very limited jurisdiction over how agencies select, use, or pay consultants, it is important that each agency determines the relationship established so it complies with the appropriate Federal laws and regulations applicable to salary, travel expenses, conflict of interest, financial disclosure, divestiture, ethics, and work product. For those consultants who are appointed to the civil service, the relationship is that of employer-employee. In many instances, however, it may be difficult to determine the relationship. The following chart illustrates that two or more relationships can exist under each of three means used to secure consultant services, depending on the nature and duration of the services provided.



If a consultant is to function independently without agency control or supervision, as, for example, where he is to provide a specified end product such as a report, his services may be obtained properly by independent contract. An independent contractor does not have the status of a Government employee or special Government employee and is subject only to any constraints on the conduct of his affairs imposed by the contract.

Sometimes it is difficult to determine whether a consultant actually is an independent contractor or an employee. A contractual relationship is subject to scrutiny under CSC's instructions to insure that the relationship created between the consultant and the Government is not tantamount to that of employee and employer. If, in fact, the contractor is functioning in an employment relationship to the Government, he will be subject to the restrictions on his conduct attached to that status. Such contracts, often referred to as personal service contracts, are improper because the individuals should have been appointed in the Federal service, subject to the controls over and accruing the benefits earned by Federal employees.

INDEPENDENT CONTRACT OR EMPLOYER-EMPLOYEE RELATIONSHIP

The standards to be applied in determining whether contractors or contractor employees are functioning as employees of the Government or as independent contractors are set forth in an October 1967 opinion of the CSC General Counsel, supplemented in July 1968. (FPM Letter 300-12, Aug. 20, 1968, and attachment.) That opinion, in which the Comptroller General concurred (B-133394, Nov. 1, 1967), said that a contract is improper if it involves performance of a Federal function by the contractor or its employees under the detailed supervision of a Federal officer or employee.

In the absence of an actual showing of detailed supervision, the presence to a substantial degree of some or all of the following elements may indicate existence of the type of supervision that will establish an employer-employee relationship.

--The contract is performed at a Government site.

--The contractor is using Government-furnished equipment.

- The services contracted for are applied directly to an integral effort of the agency.
- Comparable services meeting comparable needs are performed in the same or similar agency by civil service personnel.
- The need for a type of service can reasonably be expected to last beyond 1 year.

An example of a contract where an employer-employee relationship was found to exist was an Air Force contract with the University of New Mexico for assistance in the conduct and analysis of experiments. This was not a proper independent contract because the Air Force had control over selection of contractor employees, the type of work was such that it could not be performed without direct supervision by Government personnel, and the contract provided for Government supervision. Under such circumstances, the relationship created between the Government and the contractor's employees was tantamount to that of employer and employee, and personnel performing such work should be employed in accordance with the civil service laws and classification principles. (B-157192, July 30, 1965.)

REGULAR OR SPECIAL GOVERNMENT EMPLOYEE

A consultant who serves as a Government employee may be appointed on a temporary or intermittent basis. Temporary employment is employment of less than 1 year; intermittent employment means occasional or irregular employment of less than 130 days a year. A consultant employed on a temporary basis for more than 130 days a year is regarded as a regular Government employee for purposes of Federal standards of responsibility and conduct and is subject to all laws and regulations designed to guarantee proper conduct of Federal employees.

When consultant services are not obtained by independent contract but on an intermittent basis or under temporary appointment for 130 days or less a year, the consultant is regarded as a "special Government employee." 18 U.S.C. 202(a) defines a special Government employee as

"* * * an officer or employee of the executive or legislative branch of the United States Government, of an independent agency of the United States or of the District of Columbia, who is retained, designated,

appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis."

This definition is used in Executive Order 11222, May 8, 1965, "Prescribing Standards of Ethical Conduct for Government Officer and Employees," and in CSC's implementing regulations appearing in 5 C.F.R., Part 735. Special Government employees are subject to many, but not all, laws and regulations on conduct applicable to regular Government employees.

EMPLOYEE OR REPRESENTATIVE

Under the Federal Advisory Committee Act, Public Law 92-463, appearing in 5 U.S.C., Appendix I, boards, committees, panels, task forces, etc., established in the interest of obtaining advice and recommendations are termed "advisory committees." The status of members of advisory committees is not clearly defined. The act merely provides that no member of an advisory committee shall receive compensation at a rate exceeding that of a GS-18 employee and authorizes payment of members' travel expenses to the extent permitted by 5 U.S.C. 5703 for persons employed intermittently by the Government.

Even before 18 U.S.C. was amended to create the class of special Government employees referred to above, it was recognized that certain individuals who represent non-Government organizations, invited to present their views in a representational capacity, are not Government employees. In the President's February 9, 1962, memorandum, "Preventing Conflicts of Interests on the Part of Advisers and Consultants of the Government," the following distinction is drawn between consultants and advisers who serve as employees and those acting in a representational capacity:

"It is occasionally necessary to distinguish consultants and advisers from persons speaking for a firm or an industry, or for labor or agriculture, or in some other representative capacity. A consultant or adviser is a person whose advice is obtained by a department or agency because of his particular qualifications and who serves as an employee in an individual and independent capacity. A representative of a firm or industry or organization who is invited

to appear before a Government department or agency presents his views in a representative capacity and is not an employee. The representative is not, therefore, within the scope of the conflict-of-interest laws. Departments and agencies should be careful to make and clarify the distinction noted here and should not compensate an industry or similar representative for his advice, though they may pay travel expenses and per diem allowances where appropriate."

In a May 2, 1963, Presidential memorandum, "Preventing Conflicts of Interest on the Part of Special Government Employees," the following principles are set forth for determining whether an advisory committee member or other individual is acting before an agency in a representative capacity:

"(1) A person who receives compensation from the Government for his services as an adviser or consultant is its employee and not a representative of an outside group. However, the Government's payment of travel expenses and a per diem allowance does not by itself make the recipient an employee.

"(2) It is rare that a consultant or adviser who serves alone is acting in a representative capacity. Those who have representative roles are for the most part persons serving as members of an advisory committee or similar body utilized by a Government agency. It does not follow, however, that the members of every such body are acting as representatives and are therefore outside the range of the conflict-of-interest laws. This result is limited to the members of committees utilized to obtain the views of non-governmental groups or organizations.

"(3) The fact that an individual is appointed by an agency to an advisory committee upon the recommendation of an outside group or organization tends to support the conclusion that he has a representative function.

"(4) Although members of a governmental advisory body who are expected to bind outside organizations are no doubt serving in a representative capacity, the absence of authority to bind outside groups does not require the conclusion that the members are Government employees. What is important is whether they function as spokesmen for non-governmental groups or organizations and not whether they can formally commit them.

"(5) Where an adviser or consultant is in a position to act as a spokesman for the United States or a government agency--as, for example, in an international conference--he is obviously acting as an officer or employee of the Government."

This policy statement and standards for determining when an individual is acting in a representative capacity are set forth in FPM, Chapter 735, Appendix C.

The status of an advisory committee member depends primarily on the function of the particular committee. If its purpose is to reflect the views or concerns outside the Government, the individual members probably would not be Government employees. If the advisory committee does not serve such purpose, its members probably would be employees of the Government.

As in the case of temporary employees with appointments for more than 130 days a year, committee members who are employees and whose services will be required more than 130 days in a single year would be regarded as Federal employees subject to all laws and regulations governing responsibilities and conduct. Most advisory committees meet intermittently or for short periods, not on a full-time basis. Thus, most board members who are regarded as employees and expected to participate less than 130 days in a single year are special Government employees under 18 U.S.C. 202.

In summary, a consultant may have the status of (1) independent contractor, (2) special Government employee, (3) regular Government employee, or (4) advisor acting in a representational capacity only, depending upon the manner in which the services are secured and their expected duration. It is important that agencies determine which of these relationships exists because different Federal laws apply to each.

CHAPTER 3

INFORMATION AVAILABLE AT FIVE SOURCES

At present there is no centralized reporting system on all types of consultant services used by the Government. Although each executive branch agency reports to CSC and OMB on its appointed consultants and advisory committees, the agencies are not required to regularly report on contracts for consultant services.

Information on consultant contracts within and among agencies varies considerably because there is no accepted Government-wide definition of consultant services. What one agency considers a consultant service is not considered such by another agency. The lack of uniform data within a department is illustrated by the Department of Health, Education, and Welfare's (HEW's) reporting of consultant contracts. In fiscal year 1976 HEW reported to three different bodies its expenditures for consultant contracts: \$68 million, \$38 million, and information not available.

We concluded it would not be productive or practical to survey the agencies to identify their total expenditures for consultant services. Instead, we considered the information available at five sources, each with data on more than one agency. Although the data accumulated at these sources vary considerably in scope, reliability, and completeness, taken together they comprise the best information available today on the Government's use of consultants. These five data sources are a Senate committee, a Senate subcommittee, two divisions of OMB, and CSC.

SENATE COMMITTEE ON APPROPRIATIONS

Since 1974 the Senate Committee on Appropriations has required HEW, the Department of Labor, ACTION, and Community Services Administration to submit semiannual reports to the appropriate committees of the Congress on their use of consultant services. In addition, the Committee directed each agency not to spend more for consultant services in fiscal years 1974 and 1975 than it had spent during fiscal year 1973. This ceiling was deleted for the fiscal year 1976.

The Committee expressed its concern in its Appropriations Report 94-997 for fiscal year 1977:

"The last several years have seen a considerable growth in agency reliance on consultants and contractual services. It is clear that a portion

of the increase is justified. For example, programs often must undertake short-term projects which demand a very specific expertise. Nevertheless, it is evident that: (1) some nonessential and marginal work is being performed by consultants and (2) work is being contracted out when the agency involved should, in fact, be developing an in-house capability to perform the task."

HEW reported combined expenditures for consultants and experts. These expenditures have been increasing.

<u>Fiscal year</u>	<u>Millions</u>
1974	\$ 47.8
1975	87.4
1976 (note a)	96.5
1977	b/86.5
1978	b/100.9

a/Includes transition quarter.

b/Estimated.

In its report, S.R. 94-366, on the fiscal year 1976 appropriations bill for the Departments of Labor and HEW and related agencies, the Committee directed that the agencies establish procedures to control and report on their use of consultant services. The Committee's principal concerns were about (1) obtaining data that could be used to identify the extent of appropriated funds being devoted to consultant services and (2) possible nonconformance with prescribed personnel ceilings and CSC rules and regulations.

The Committee directed the agencies to report semiannually to the appropriate committees of the Congress for obligation in excess of \$25,000 to any individual, consulting firm, or institution for consultant fees and services during the reporting period showing

- total amount obligated;
- number of awards by agency;
- type of award, that is, contract, grant, or other;
- name of awardee and total amount obligated;
- title and major objective of each award; and
- a statement on the implementation of findings.

The Committee also required the agencies to establish consistent procedures for reporting meaningful and timely data. At the request of the Committee, we examined the reporting procedures and criteria used by the four agencies to prepare reports on their use of consultants during the period July 1 through December 31, 1975. We also obtained information on changes the agencies planned to make in these procedures in preparing subsequent reports.

We reported to the Committee in October 1976 that the agencies had not used consistent criteria or procedures. They excluded a large portion of services that ordinarily would be construed as consultant services. The initial report of each agency contained information that was incomplete or differed from supporting data. These deficiencies generally detracted from the usefulness of the reports in attaining the Committee's objectives. HEW's approach illustrates the problems encountered in responding to the Committee.

HEW was the first organization to issue formal guidelines implementing the Committee's reporting requirement. HEW's guidelines released in January 1976 identified consultant services as those described in the HEW administration manual; advice or assistance to improve or assess economy, efficiency, or effectiveness of organization, management, systems, and related administrative areas. The guidelines cited a number of functional or operating areas for which consultant services were to be reported.

The guidelines stated that consultant services were not to be reported if they were

- recurring parts of a program activity included in the congressional budget justifications;
- performed by technicians or unskilled persons to meet unusual or peak work requirements;
- required for hearings, appeals, or arbitration;
- to result in products, rather than services; or
- incurred below the prime contractor level.

Examples of exclusions cited in HEW guidelines included basic or experimental research in educational, medical, social, and scientific fields; operation of national clearing houses, commissions, and review boards; and architect-engineering services.

HEW's guidelines noted that there would be difficulty in applying its definitions with precision and provided that questions be resolved with the Deputy Assistant Secretary, Finance. Officials at one HEW agency said the exclusions in departmental guidelines were so broad that they could be interpreted to exclude everything they might have considered as a consultant service. Agency officials described some of the following difficulties in interpreting HEW guidance:

- Training grants were not mentioned specifically in the guidelines.
- Treatment of consultant travel costs and contracts for technical assistance to grantees and HEW programs was not clear.
- Confusion occurred over the requirement to include program evaluations only if they were part of continuing or recurring activities.

HEW guidelines did not assign responsibility for reporting consultant services used by national commissions. Some of these commissions work closely with the National Institutes of Health and often use the Institutes' funds to make awards. As a result, contracts awarded for such commissions with these funds were not reported, although they appeared to fall within the Committee requirements for reporting consultant services.

HEW's Center for Disease Control determined that none of its contracts obligated during the first half of fiscal year 1976 were for consultant services. The Center said that its research, study, and information contracts generally required development of data which the Center analyzed for improvement of its programs. Since contractors are not ordinarily required to make recommendations, the Center considered its contracts to be "product" oriented and thus not reportable as consultant services.

HEW reported no appointed consultants for the first half of fiscal year 1976 because none had been paid more than \$25,000. However, HEW reported all appointed consultants earning more than \$25,000 beginning with its report for the second half of fiscal year 1976.

Committee Report (S.R. 95-283) for fiscal year 1978 cited abuses of consultant services and imposed additional reporting requirements on HEW:

"The Committee is concerned over what it considers to be an undue reliance upon the work of outside consultants in HEW.

"In a report submitted by HEW in February of this year, at the Subcommittee's request, HEW presented an estimated fiscal year 1978 budget for consultant costs of over \$100 million. This amount does not include some major consultant contracts and activities known to the Committee.

"Recent Congressional hearings have cited numerous allegations of apparent waste and mismanagement of consultant contracts and services.

"The Committee is concerned that the expertise developed through the performance of such contracts cannot be retained within the Federal Government but must be repurchased at considerable cost each time such knowledge is again required.

"The Committee is unaware of any instance where a consultant's recommendation has produced a significant program improvement.

"An analysis of the itemized contracts let during fiscal years 1976 and 1977 indicated that many of these contracts may have been inappropriate in the context of (a) agency missions and priorities; (b) previous contracts performed for the same purpose; and (c) duplicate contracts being let simultaneously within other parts of the Department and Federal Government.

"The Committee directs that the Department continue the semiannual report of consultant costs required by Senate Report 94-366. In addition, the Department is to submit by the end of calendar year 1977 a report on the total amount of funds obligated in fiscal year 1977 for consultant services and expected costs in 1978 and 1979."

SUBCOMMITTEE ON REPORTS, ACCOUNTING, AND
MANAGEMENT, SENATE COMMITTEE ON
GOVERNMENTAL AFFAIRS

In October 1976 the Subcommittee on Reports, Accounting, and Management, Senate Committee on Governmental Affairs, sent a questionnaire to 178 departments, bureaus, and independent agencies in the executive branch to determine the extent and cost of the Government's use of consultants and contractors. The Subcommittee had found no centralized sources of data which accurately identified how many consultants were used by the Federal Government, for what purpose, or how much was spent to obtain their services.

The Subcommittee believed these questions must be answered to provide effective congressional and executive branch oversight. It was concerned that the Federal Government might be using consultants in some instances to avoid personnel ceilings and perform work that should be done by civil servants.

Each agency was asked to respond to 12 questions, including what definition of consultant it used and policies and procedures for using consultants, and to provide specific information for each consultant who received \$5,000 or more during fiscal year 1976. The Subcommittee provided with its questionnaire definitions of the terms consultant, intermittent employment, and temporary employment which appear in FPM.

The Congressional Research Service (CRS) compiled and analyzed the responses to the Subcommittee's questionnaire. CRS found it very difficult to summarize the responses because many agencies had negotiated with the Subcommittee staff about the information to be furnished on particular questions. Consequently, the agencies did not respond uniformly. The CRS analysis is published in the Subcommittee's August 7, 1977, report, "Consultants and Contractors," which described the broad range of responses received.

"The responses of many agencies which did cooperate include misinterpretations, inconsistencies and strange mathematics. Obviously each instance of these detracts from the agency's response and reduces the value of the survey. On the other hand timely and adequate responses, prepared at small expense because of good information management systems, arrived from agencies such as the Law Enforcement Assistance Administration and the Department of Health, Education and Welfare. Such responses indicate that a system that will, for the first time, produce the information which both the Congress and executive branch need concerning experts and consultants can be developed under executive leadership and Congressional oversight."

CRS' analysis of the agency responses to the questionnaire showed that:

--There appears to be no standard, Government-wide definition of a party to a nonpermanent arrangement for providing professional services to the Federal Government.

--The reporting agencies paid or obligated more than \$906 million for consultants and contractors in fiscal year 1976.

--The number of contractor/consultant work-years represented 28.4 percent of the reporting agencies' work forces as of June 30, 1976.

According to CRS,

"There were enough problems with data being studied that all conclusions must be considered to be tentative. There was no time to extend the effort by systematically following up on the responses for clarification. Many agencies negotiated with the Subcommittee staff regarding the content of responses (especially on quantitative matters). Therefore uniformity was sacrificed and that should be taken into consideration when interpreting survey findings."

Despite these qualifications, CRS said the report should serve two purposes:

--"To convey a unique collection of information on the policies and procedures of the Executive Branch agencies in their use of contractors and consultants for professional services."

--"To demonstrate the variety of methods used by agencies to implement those policies and of the methodological problems involved in calculating the depth of involvement of contractor/consultant activity in the Federal sector."

COMMITTEE MANAGEMENT SECRETARIAT, OMB

Congressional hearings held in 1970 and 1971 revealed that the Government did not know how many Federal advisory committees existed, at what cost, and for what purposes. The Congress passed the Federal Advisory Committee Act of 1972 which authorized establishment of a system for providing improved oversight of Federal advisory committees. The act defines an advisory committee as

"* * * any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof which is (a) established by statute or reorganization plan or (b) established or utilized by the President, or (c) established or

utilized by one or more agencies in the interest of obtaining advice or recommendations."

Excluded from the provision of the act are the Advisory Committee on Intergovernmental Relations, the Commission on Government Procurement, any committee composed wholly of full-time Federal employees, and advisory committees of the Central Intelligence Agency, Federal Reserve System, and certain State and local groups.

The act contains three key provisions that

- required the President to issue annual reports which identify the number, function, and costs of all advisory committees in the executive branch;
- established within OMB a Committee Management Secretariat which has responsibility for all matters relating to advisory committees; and
- called for open advisory committee meetings where possible.

The act also provides guidelines on advance notice of meetings, balanced representation of committee membership, meaningful minutes or transcripts of committee meetings, termination of committees, establishment of new committees only when existing ones are inadequate, and limitation of advisory committee functions to advice, rather than policy matters. It directs each agency head to establish uniform administrative guidelines and management controls consistent with directives of the Committee Management Secretariat. Agency heads must designate an Advisory Committee Management Officer who exercises control and supervision over the establishment, procedures, and accomplishments of the agency's advisory committees.

The President's annual report on Federal advisory committees, submitted to the Congress no later than March 31 of each year, contains summary data on all advisory committees in existence during the previous calendar year. The report shows agency and executive branch totals for number of committees and number of committee positions occupied during the year, number of meetings held, and total annual costs to support and operate the committees.

In addition to the President's annual report, the Senate Committee on Governmental Affairs publishes an Index to Membership of Federal Advisory Committees which contains alphabetized listings of membership information by

--employment affiliation, member name, and committee code;

--member name, affiliation, and committee code; and

--committee code, member name, and affiliation.

Reports for calendar years 1972 through 1976 showed a decrease in Federal advisory committees (1,439 in 1972 and 1,159 in 1976), but an increase in the number of advisory committee members. An OMB official said that the total number of members serving was not determined for 1972 or 1973, but reports showed an increase from 22,702 in 1974 to 25,630 in 1975 and 27,432 in 1976. Total costs of advisory committees more than doubled from \$25.2 million in 1972 to \$59.7 million in 1976.

As part of his effort to improve the organization and effectiveness of the Government, on February 25, 1977, the President ordered a Government-wide, zero-based review of all Federal advisory committees. On May 25, 1977, the President announced that 304 of 1,189 committees in existence March 30, 1977, had been terminated. Further review resulted in an August 24, 1977, announcement that 176 additional committees would be terminated. The 40-percent reduction in the 1,189 committees reviewed will be accomplished by eliminating 261 committees and consolidating 297 others into 78 committees, a net reduction of 480 committees.

The following table shows the trend over the last 5 years for all advisory committees subject to the Federal Advisory Committee Act.

<u>Calendar year</u>	<u>Number of advisory committees at end of year</u>	<u>Number of committee members (note a)</u>	<u>Total cost (note b)</u>
1972	1,439	Not determined	\$25,215,882
1973	1,250	Not determined	31,110,510
1974	1,242	22,702	42,380,636
1975	1,267	25,630	51,769,400
1976	1,159	27,432	59,726,365
August 1977	709	(c)	(c)

a/Denotes the total number of advisory positions available during the calendar year. The actual number of individuals who serve on Federal advisory committees would be less since some persons serve on two or more advisory committees.

b/Our April 1977 report (Better Evaluations Needed To Weed Out Useless Federal Advisory Committees, GGD-76-104) said that agency methods used to determine committee costs have been inconsistent and that reported costs have been incomplete and not comparable. OMB issued guidelines in December 1976 which should promote reporting of comparable data in the future.

c/OMB estimated that about 5,000 committee members would be dismissed during calendar year 1977 and that savings of \$14.6 million will result. The savings are based on the estimated cost of each committee during 1977. The decrease in members is based on the average number of members per committee in 1976.

OFFICE OF FEDERAL PROCUREMENT POLICY, OMB

On May 12, 1977, the President sent a memorandum to heads of 89 executive departments and agencies requesting information on their use of experts and consultants. In expressing his concern about the increasing use of consultant services by the Federal Government, the President said that "some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly." He said that areas of concern included

- "--Use of consultant to perform work of a policymaking or managerial nature which should be retained directly by agency officials.
- "--Repeated appointments or contract extensions which raise questions whether the work is better suited to other more appropriate arrangements.
- "--Use of consultants to provide studies and analyses which have no useful impact on agency operations, either because the subject itself is non-essential or because there are no disciplined agency procedures to (a) check priorities and (b) insure followup on the results.
- "--Use of consultant arrangements as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.
- "--'Revolving door' abuses whereby former Government employees may be improperly favored for individual or contracted consulting arrangements.
- "--Intra-agency duplication of consultant efforts, especially in large, multi-agency departments such as Defense and Health, Education, and Welfare, because there is no central coordination of consulting efforts or dissemination of results.
- "--Conflicts of interest between consultants' advice and their other outside financial interests and affiliations."

The President directed the heads of executive departments and agencies to

- "1. Review all data that is available or can be readily assembled to describe:

- The principal purposes for which consulting services are being used;
 - The types of consulting arrangements being used (Civil Service Commission appointment, contract, grant, advisory committee membership, other); and
 - The number of such arrangements in effect and the total dollars involved.
- "2. Review and revise the management controls and decision criteria used for consultants which will effectively prevent abuses.
 - "3. Eliminate those consultant arrangements found to be neither appropriate nor necessary.
 - "4. Report the results of the above items to the Director of the Office of Management and Budget by Jul 30, 1977."

The President did not define consultant or consultant services or provide guidelines for agencies preparing responses. An OMB official said that a definition was not included because there is no accepted Government-wide definition, and that inclusion of a definition in the Senate Subcommittee on Reports, Accounting, and Management's questionnaire had created many difficulties in tabulating responses and formulating meaningful conclusions. The request also did not specify the period to be covered. As a result, agency submissions on total number and cost of consultant arrangements covered various periods of time.

Each agency used its own definition in providing information on the number of consultants used and the expenditures. More than 80 different types of services were reported as being performed under consulting arrangements. OMB officials said that since the time for preparing a response was short, agencies were granted additional time to assess and eliminate unnecessary consulting arrangements. Some agencies did report estimates on planned or actual reductions in their use of consultants. The Office of Federal Procurement Policy, OMB, compiled the information reported.

The agencies reported a wide variety of services provided by consultants, including

- evaluating the effectiveness of agency publications,

- analyzing relative wages in the construction industry,
- diagnosing X-rays, and
- monitoring certain fish populations.

This illustrates the difficulty in defining consultant services.

Even though the agencies used different reporting periods, OMB summarized the total number of consultant arrangements and the costs reported by 64 agencies for each type of arrangement as computed by OMB.

<u>Consult arrangement</u>	<u>Number</u>	<u>Cost</u>
Personnel appointment	17,963	\$ 49,362,300
Contracts	4,660	1,428,757,700
Grants	302	282,914,800
Advisory committee members	<u>11,001</u>	<u>36,339,300</u>
Total	<u>33,926</u>	<u>\$1,797,374,100</u>

OMB officials plan to send a similar data request to agencies by June 1978. OMB also is considering issuing for comment a draft circular containing new guidelines and a definition for consultant services that will be placed in the Federal Register. When finalized, this circular and definition will be used by OMB as a basis for future requests to agencies for information on their use of consultant services. The circular will also be used to identify consultant contracts in the proposed Federal Procurement Data System discussed in chapter 4.

An OMB official said that the President's letter and the proposed OMB circular will

- help to resolve the definitional problem so that some consensus is reached among agencies on what is meant by consultant services,
- bring to top management's attention the types of consulting abuses that need to be avoided, and
- provide the means for OMB to monitor executive branch agencies' use of consultants.

CIVIL SERVICE COMMISSION

CSC collects and stores statistics on appointed experts and consultants in its Central Personnel Data File (CPDF), an automated file system of individual records for most of the Federal civilian work force. CPDF became operational in 1972 to provide essential information CSC and other agencies need about the Federal work force. This has reduced the number of survey reports which agencies must submit to CSC.

Most of the data in the CPDF is taken from Standard Form 50, Notification of Personnel Action, which documents changes in the status of an individual holding a position with the Federal Government. Approximately 500,000 of these documents submitted to CSC each month are used to generate information for approximately 40 data elements stored in the CPDF to describe each Federal employee. It takes approximately 90 days for a personnel action submitted by an agency to be reflected in the CPDF which contains data most executive branch employees and many others as shown below.

<u>Branch</u>	<u>Percent of total employees covered</u>
Executive (note a)	99
Legislative (note b)	40
Judicial (note c)	3

a/Excludes White House, Federal Reserve Board, Tennessee Valley Authority, Central Intelligence Agency, and National Security Agency.

b/Includes GAO, Government Printing Office, and U.S. Tax Court.

c/Includes Administrative Office of the U.S. Courts.

CPDF's major file, the current status file, contains the most recent record of employment for active Federal employees. The transaction history file provides a historical record of changes to individual employees' status received on Standard Form 50 transactions.

Approximately 40 data elements are included in the current status and transactions history files. One data element in the current status file is the expert and consultant pay plan through which CPDF reports on the total number of experts and consultants employed by each agency. This pay plan includes those experts, consultants, and advisory

committee members who have been hired pursuant to the 5 U.S.C. 3109 authority or other special authority.

The chart on page 24 shows the total number of experts and consultants in this pay plan for the period January 1974-March 1977.

CPDF figures for March 1975 showed that five agencies employed 66 percent of all experts and consultants used. The chart below shows comparable figures for the next 2 years.

<u>Agency</u>	<u>March 1975</u>	<u>March 1976</u>	<u>March 1977</u>
Department of Health, Education, and Welfare	2,401	2,965	4,044
Army	2,080	1,906	329
National Foundation on the Arts and Humanities	1,474	1,807	1,375
National Science Founda- tion	575	572	39
Department of Defense	<u>583</u>	<u>623</u>	<u>494</u>
Total	<u>7,113</u>	<u>7,873</u>	<u>6,281</u>

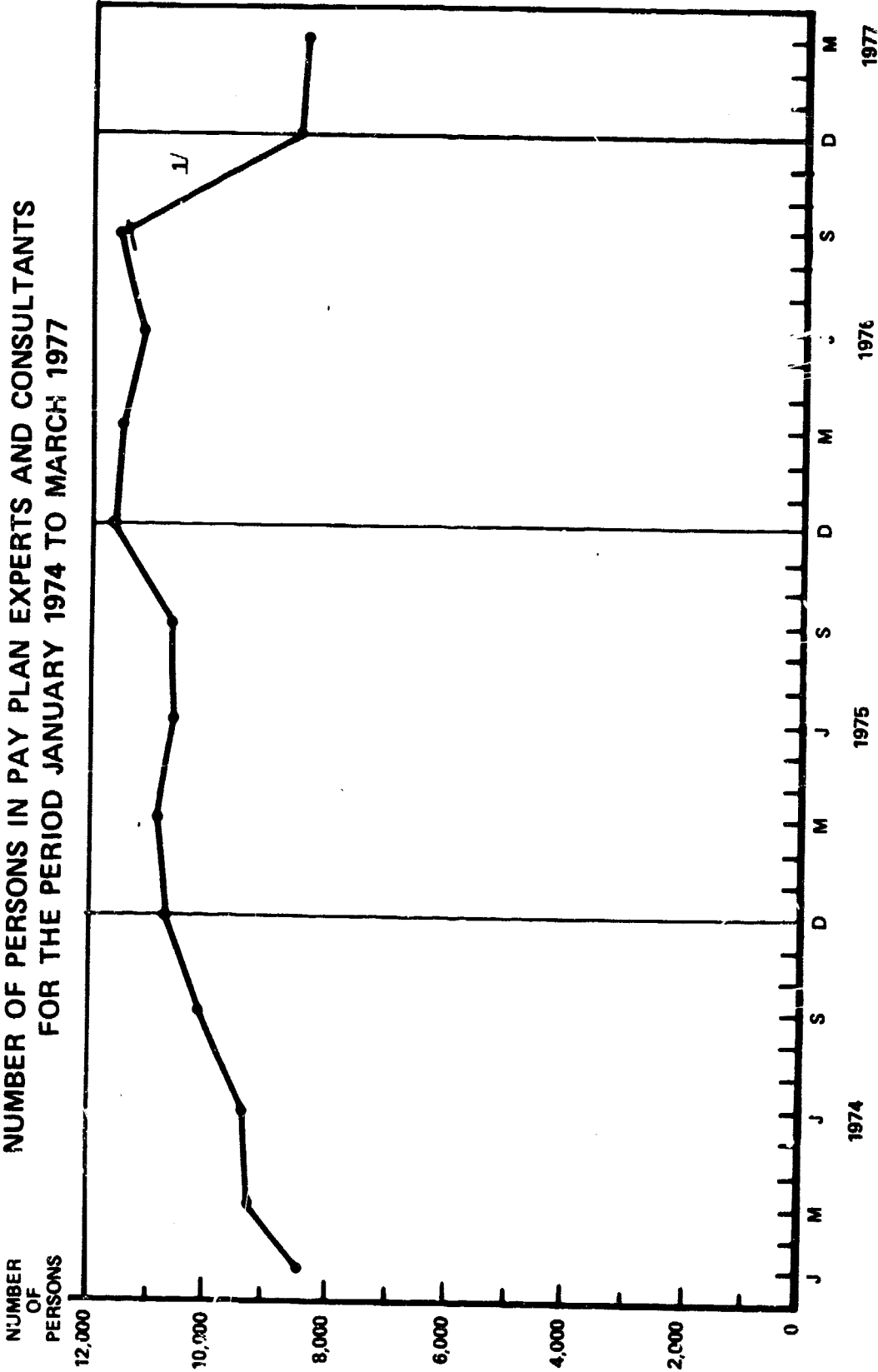
Currently CPDF does not report the following data on experts and consultants:

- Specific hiring authority used.
- Daily rate of pay.
- Number of days worked.
- Status of the individual: expert, consultant, or advisory committee member.
- Total compensation paid.

Because of recent increased interest in the use of experts and consultants in the Federal Government, an official said CSC plans to issue special reports each month beginning about September 30, 1977. These monthly reports will show the number of:

- Experts and consultants hired.

NUMBER OF PERSONS IN PAY PLAN EXPERTS AND CONSULTANTS
FOR THE PERIOD JANUARY 1974 TO MARCH 1977



1/ The December 1976 figure is the first to reflect the "dummy separation" edit procedure performed by CSC in October, 1976 to artificially eliminate all expert and consultant appointments that were over 12 months old. Most of these appointments are for 1 year or less and this "dummy separation" was necessary because agencies failed to submit a Standard Form 50 terminating the appointment. CSC officials said that a programming error in the logic of the edit resulted in an understatement of the actual number of experts and consultants employed.

- Experts and consultants converted to full-time General Schedule positions.
- Full-time General Schedule employees converted to experts or consultants.
- Employees converted from any type of appointment to experts and consultants.
- Experts and consultants converted to any other type of appointment.
- Experts and consultants terminated and then hired in another pay plan the following month.

CPDF is an interim system that will be replaced by the Federal Personnel Management Information System (FPMIS) currently being developed by CSC. (See ch. 4.)

CHAPTER 4

DATA SYSTEMS BEING DEVELOPED

Two data systems currently being developed to meet other Government information needs have the potential for improving the information available on the Government's use of consultant services. The Federal Procurement Data System being developed by the Office of Federal Procurement Policy, OMB, will provide data on consultant contracts. The Federal Personnel Management Information System being developed by CSC will monitor appointed consultants.

FEDERAL PROCUREMENT DATA SYSTEM

At present there is no centralized source of information on the goods and services purchased under contract by the Federal Government. In 1972 the Commission on Government Procurement recommended that improvements be made in the system for collecting and disseminating procurement data to meet the needs of the Congress, the executive branch, and others. OMB's Office of Federal Procurement Policy was given responsibility for developing this system.

The Commission's recommendation resulted in developing the Federal Procurement Data System (FPDS), an automated centralized reporting system for all Government contracts. This system, which has target date implementation data of October 1, 1978, has the potential for significantly improving the Government's ability to monitor the total cost and number of consultant contracts. The Federal Procurement Data Center will be operated by either the Department of Defense or the General Services Administration.

Most executive branch agencies will be required to submit to the Center quarterly reports covering all contract awards made during the period. Reports will include

- all procurements from non-Federal sources of supplies, equipment, construction, and services;
- commercial utilities and communications;
- rents paid by the General Services Administration;
- procurements by Federal Prison Industries; and
- procurements by the Government Printing Office.

Agencies will not report on procurements funded by non-appropriated funds and grants. Detailed information will be submitted on each contract or modification over \$10,000, with only aggregate, summary information reported for contracts and modifications under \$10,000 (e.g., total dollar value and number of contracts).

Each contract or contract modification over \$10,000 entered in FPDS will be assigned a code to describe the type of product or service procured. The proposed codes are similar to those used in the Department of Defense procurement coding system, but have been refined to reflect the needs of civilian agencies. Other data to be reported include the contract number, modification number, purchasing or contracting office, effective date of award, contractor establishment code, principal place of performance, and total dollars obligated on the transaction.

The Federal Procurement Data Center will issue reports describing the products or services procured by each agency, the period in which procurement actions were reported, which contractors provided the products or services, negotiated authorities used, and other statistical information. An OMB official said the Center will also maintain a contractor identification file that may be used by agencies to determine which contractors provide the various services to the Government. Since FPDS will not provide abstracts of the work performed by contractors, the only information available to avoid duplication of contracted studies will be the contractor identification and service codes.

For each contract over \$10,000, FPDS instructions will require each contracting official to specify with a yes or no response if the contract is for consultant services. This will enable FPDS to identify all consultant contracts in excess of \$10,000 and provide much information about each. Agencies will be required to use the uniform definition of consultant services developed by OMB.

OMB officials said that although FPDS will provide improved Government-wide statistical information on contracts, it will have limited capability for detecting abuses in agency contracting procedures. It will have the capability, however, to provide the Congress, the administration, and others with more comprehensive and uniform statistical data than is currently available on consultant services.

FEDERAL PERSONNEL MANAGEMENT INFORMATION SYSTEM

To provide the resource data necessary to effectively manage the Federal work force, in 1968 CSC proposed development of a Federal Personnel Management Information System (FPMIS). CSC felt this system was needed because several studies had noted CSC's inability to collect Government-wide personnel information in a timely manner and its difficulty in producing Government-wide information from the various agency systems. FPMIS goals are to:

- Provide required and previously unavailable information on the Federal work force to decisionmakers in OMB and central management agencies, the President, the Congress, and the public.
- Modernize and streamline personnel action processing and reporting procedures affecting more than 1,500 personnel offices in more than 100 agencies.

The Central Personnel Data File (CPDF) (see ch. 3) was implemented in 1972 as a temporary system to meet the immediate need for Government-wide personnel information. While CPDF functions within the existing Government-wide personnel processing environment, FPMIS will promote uniform Government-wide procedures and take full advantage of automated data processing capabilities.

CPDF will be used until FPMIS is implemented in the 1980s. In the meantime, CPDF can be modified and redesigned to respond to new reporting requirements and take advantage of new capabilities available through better computer hardware and software. (See app. I, attachment 3, for suggested new reporting requirements.)

The FPMIS effort is being led by CSC with guidance provided by a users group comprised of personnel directors from several agencies and CSC bureau directors. FPMIS staff are in the process of identifying, validating, and justifying the personnel management information needed to effectively manage the Federal work force. Although requirements have not been finalized, FPMIS probably will contain about three times more data than CPDF.

Although CSC has planned operational tests of the system during fiscal years 1976-80, no results are available. The tests will be conducted to evaluate the FPMIS design in agency operating environments to assure that it is cost effective and efficient, performs as required at all levels of

the Government, can be properly maintained, and produces information that is useful to management. CSC, the Air Force, and the Department of Health, Education, and Welfare have been selected to help test and evaluate FPMIS. After the operational tests are completed, decisions will be made on Government-wide implementation.

When operational, FPMIS will be the centralized Government-wide source of information on appointed consultants and other members of the Federal work force. However, FPMIS is currently in an early stage of development and it is not known at this time what specific data will be available on consultants.

United States General Accounting Office
Washington, D.C. 20548

September 15, 1977

Statement of

Elmer B. Staats
Comptroller General of the United States

Before the
Subcommittee on Reports, Accounting, and Management
Senate Committee on Governmental Affairs

on

Development of a Uniform Reporting System
for Employment of Consultants

Mr. Chairman and Members of the Subcommittee:

We are here today at the request of your Subcommittee to present our views on the development of a uniform reporting system for employment of consultants. We share your concern that the Federal Government does not have data readily available on how many consultants it uses, what they do, or how much their services cost. When we refer to contractors in this statement, we are referring to contractors for consultant services.

In recent years the President has proposed and the Congress has enacted many new programs to deal with changing social, economic, and technical needs. If the departments and agencies are

to administer these programs effectively they must have access to the best advice and expertise that can be obtained. Although the Government's programs and functions are carried on primarily by its permanent work force, in many instances it is not economical to hire permanent employees and the agencies must draw upon a great pool of talent that is not needed or available full time.

Title 5 of the United States Code, Section 3109, permits the head of an agency "when authorized by an appropriation or other statute" to " * * * procure by contract the temporary * * * or intermittent services of experts or consultants or an organization thereof * * * ." Specific statutory authority is provided individual agencies in continuing legislation or appropriation acts.

We agree with the Civil Service Commission's views that the proper use of experts and consultants is a normal, legitimate, and economical way to improve Government services and operations. Agencies must be able to obtain highly qualified talent to cope with a great diversity of highly technical and complicated problems and programs. Use of experts and consultants may be the most efficient and economical way to

- Meet agency needs for a concentrated effort involving specialized skills not required, and in many cases not available, on a continuing basis.
- Provide objectivity in analyzing problems or evaluating program results to avoid institutional bias.

--Provide flexibility in acquiring the advice of persons with specialized training or experience without a long-term employment commitment.

The Congress and the President have long been concerned about whether agencies properly and effectively employ and use experts and consultants. To illustrate,

--In 1960 the Subcommittee on General Government Matters, House Committee on Appropriations, requested the Bureau of the Budget and the General Accounting Office to study the practices of the various agencies in hiring experts, consultants, and consulting firms and organizations for management advisory services. This study showed a need for a change in the Administrative Expenses Act of 1946 (5 U.S.C. 55a) to provide a single authority for the hiring of experts and consultants and an effective control over contracting with firms and individuals for management consultant and advisory services. This change was not made when the provisions of 5 U.S.C. 55a were incorporated into 5 U.S.C. 3109.

--In October 1976 your subcommittee sent a questionnaire to the departments, agencies, and bureaus of the executive branch to obtain their assistance in compiling a report on Federal contractors and consultants. Your report, released August 7, 1977, noted that it is " * * * the

single source of information gathered on the use of contractors and consultants for professional services in the public sector." The report also noted that certain chapters "* * * show the present disarray among Federal agencies in their own internal record-keeping regarding consultants and contractors, and the lack of and need for a uniform system."

--In his May 12, 1977, memorandum to the heads of executive departments and agencies, President Carter said:

"In a continuing search for ways to improve the efficiency and effectiveness of the executive branch, I have become aware of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government. A recent survey by a Senate subcommittee of the use of personal and non-personal consultant and expert services identified more than 30,000 contract arrangements and 10,777 individual appointments. Additionally, there are such services provided by grant arrangements and through advisory committee memberships."

Expressing concern about the way consultants are used, the President requested the departments and agencies to review all data available or that could readily be assembled on their use of, and controls over, consulting services, and to report the results to the Director, Office of Management and Budget, by June 30, 1977. The Office's spokesman may comment on this matter in his statement to this Subcommittee.

Recently we undertook a research effort to identify and describe all existing centralized sources of information, centralized in the sense that information has been assembled on more than one agency's use of consultants. We expect to release shortly a report on this study which describes the data available from five sources.

We have already mentioned two of these sources of information--the recent efforts of this Subcommittee and of the President. The Senate Committee on Appropriations has required certain agencies, including the Department of Health, Education and Welfare, to report regularly to the Congress on their use of consultants. The Civil Service Commission has gathered certain data on appointed consultants in its Central Personnel Data File. Information on Federal Advisory Committees and their members is reported pursuant to Public Law 92-463.

Our review of the data available from these five sources showed that most agencies do not maintain reliable data on their use of consultants. Earlier, in 1975, at the request of this Subcommittee we reviewed data available at 12 executive agencies and 8 regulatory commissions and reported that these agencies did not record data on that portion of their budgets spent for consultant services.

Unsuccessful efforts of the Congress, the President, and concerned citizens to obtain reliable information on how many

consultants are used, who they are, and what they do have bred suspicions that they improperly influence decision making within the Government. We do not agree with this view. We believe, however, that essential to improving controls over the use of consultants is a uniform, practical, effective information system that will provide visibility through reporting as needed on how extensively the agencies are using this important resource of talent and expertise.

To establish such an information system, a standard definition must be adopted, the components of the system identified, and a single authority and operators of the system designated.

NEED FOR A STANDARD DEFINITION

Efforts to assemble information on use of consultants by agencies of the Government have been frustrated by lack of agreement on a common definition of consultants. In analyzing agency responses to your Subcommittee's questionnaire, the Congressional Research Service noted that:

"Aside from the definition found in the Federal Personnel Manual (FPM), there appears to be no standard, government-wide definition of a party to a nonpermanent arrangement for providing professional services to the Federal Government."

In our research effort we noted more than 20 different definitions used by agencies. Often one definition would include a specific service that was excluded from another definition. Until a standard definition is adopted and applied uniformly it

will not be possible to determine how many consultants are used by the Federal Government and at what cost.

Consider the Civil Service Commission's definition contained in FPM chapter 304:

"Consultant means a person who serves as an adviser to an officer or instrumentality of the Government, as distinguished from an officer or employee who carries out the agency's duties and responsibilities. He gives his views or opinions on problems or questions presented him by the agency, but he neither performs nor supervises performance of operating functions. Ordinarily, he is expert in the field in which he advises, but he need not be a specialist. His expertness may consist of a high order of broad administrative, professional, or technical experience indicating that his ability and knowledge make his advice distinctively valuable to the agency.

"Consultant position means a position requiring the performance of purely advisory or consultant services, not including performance of operating functions."

This definition defines a consultant as one who serves in an advisory capacity only, who may not be used to participate in an agency's operations in any way, and applies to individual consultants employed by agencies subject to the Civil Service laws and regulations.

We believe the Commission's definition of consultant is a clear statement that could be adopted for Government-wide use. This definition could be modified to apply to individuals under appointments as well as to contracts with individuals, profit or nonprofit firms, institutions, associations, or foundations who provide consultant services.

Immediately after defining consultant and consultant position in FPM chapter 304, the Commission defines expert and expert position.

"Expert means a person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field. His knowledge and mastery of the principles, practices, problems, methods, and techniques of his field of activity, or of a specialized area in the field, are clearly superior to those usually possessed by ordinarily competent persons in that activity. His attainment is such that he usually is regarded as an authority or as a practitioner of unusual competence and skill by other persons in the profession, occupation, or activity.

"Expert position means a position that, for satisfactory performance, requires the services of an expert in the particular field * * * and with duties that cannot be performed satisfactorily by someone not an expert in that field."

Confusion has resulted from indiscriminate use of the terms consultant and expert. Except for its definition, even the Commission links the two terms in its FPM chapter 304 on "Employment of Experts and Consultants." While a consultant ordinarily should be an expert, an expert may serve other than in a consulting capacity.

Agencies strongly disagree on what types of services should be included or excluded from the definition of consultant services. This problem is complicated by the overlapping and complex relationships between professional and nonprofessional services. We are using the term professional services to encompass the services of a wide range of occupations which require

specialized knowledge or experience, and often long and intensive academic preparation. The Department of Commerce has identified 64 categories of professional services shown on attachment 1. Probably there are many others. We consider non-professional services as those associated with commercial, mechanical, agricultural, and similar activities.

Agreement on what should be considered consultant services is further complicated by the use of the terms "personal services" and "nonpersonal services." In fact, these two terms inartfully describe two types of relationships that can exist between the Government and a consultant and do not in any way define what constitutes consulting services.

If an individual consultant or group or firm of consultants provides advisory services under a contract without supervision by a Government official, there is an independent contract relationship. Services obtained on this basis are frequently referred to as "nonpersonal services." Such services are also referred to as "independent contractor" services.

If, on the other hand, an individual consultant or group or firm of consultants provides advisory services under a contract with close supervision by a Federal official, the relationship created is tantamount to that of employer and employee. The contract is improper because the services should have been obtained by appointment of the individual or the firm's members

in the Federal service, giving them the benefits properly due Federal employees.

Consultant services improperly obtained by contract are frequently referred to as "personal services" obtained by "personal services contract." We frequently find that the term "personal services" is used to refer generally to all expert and consultant services. In this broader context the term may be confusing and is decidedly unhelpful in attempting to describe what constitutes "consultant services."

We feel that the term "employee consultant" most accurately describes the relationship created when an individual consultant's services are obtained by appointment. The term "independent contract" better describes the relationship created by a proper contract between the Government and an individual consultant or group or firm of consultants, and that the term "nonindependent contract" better defines the relationship created by an improper contract where the consultant or group or firm of consultants in fact functions as a Government employee or employees.

NEED FOR A UNIFORM INFORMATION SYSTEM

We believe there is a need for an information system, rather than a reporting system, to be consistently applied to all agencies, that will identify the consultants and experts used, arrangements under which their services are acquired, at what cost, and

for what type of service. Such information will assist the agencies in maintaining effective control over these resources. Also, it will enable reports to be prepared as needed to assist the President and the Congress in discharging their oversight responsibilities.

The services of individuals and firms may be obtained by contract. Individual services may also be secured by appointment and selection to serve on Federal Advisory Committees. A uniform information system should include all three groups.

Three centralized data systems, currently in operation or planned to meet other Government information needs, could provide a large part of the statistical data needed to disclose the extent of the Government's use of consultants and experts:

- The Civil Service Commission's computerized Central Personnel Data File (CPDF) now contains incomplete statistical data on consultants and experts who serve under civil service appointments. The Commission is developing specifications for a Federal Personnel Management Information System (FPMIS) which will replace the CPDF and include more data on Federal employees.
- The Office of Management and Budget, Committee Management Secretariat's partially computerized system now provides information required by the Federal Advisory Committee Act of 1972 for management of advisory committees.

--The Office of Management and Budget, Office of Federal Procurement Policy's proposed computerized Federal Procurements Data System (FPDS) is planned to provide information on consultant and service contracts or modifications in excess of \$10,000.

If the centralized systems are to assemble and produce the kind of statistical data needed for disclosure of the extent to which consultants and experts are used, all agencies should be required to provide the same kind of data. It should be recognized that these centralized systems will not contain such vital information as whether they were properly engaged and used, how effectively they performed, and the use made of the advice or services for which they were paid.

To supplement the data in the centralized systems and make available information essential for effective control, each agency also should be required to maintain prescribed files and information on all individuals and contractors used to provide advisory and expert services regardless of the amount paid them. This should be feasible since agencies now must process records on the employment, use, and payment of each individual and contractor consultant and expert.

A single authority should exercise responsibility for prescribing the standard definition to be applied, data and files to be maintained, and reports to be prepared. We suggest this

single authority responsibility be in the Office of Management and Budget which continues to be the focal point of the Federal Government for policy leadership.

Also needed are uniform data elements to be used, to the extent they are applicable, for all types of consultants and experts by the agencies and incorporated in the centralized data systems. These will enable retrieval and assembly of comparable Government-wide information identifying in total and by agency the consultants and experts used, types of services performed, and costs incurred. Agency systems must be capable of providing compatible summary information on consultants and experts that is not accumulated in or reported by the centralized systems.

We suggest that uniform data elements such as those listed in attachment 3 be used to gather summary information necessary to adequately monitor the Government's use of consultants and experts. The data should be recorded in the Central Personnel Data File for each individual serving under a civil service appointment, and in the Federal Procurement Data System for each individual, firm, or other entity serving under a contractual arrangement. Data on members of advisory committees should be recorded by committee and by individual. Most of the data elements already are available in existing systems or are planned for systems being developed.

OPERATION OF THE CENTRALIZED SYSTEMS

Even though a single authority should have overall responsibility for the uniform data collection and reporting system, other agencies would operate the centralized systems. Each centralized system, designed to meet other Government information needs, would be modified to the extent necessary to record and have available for retrieval relevant data on the use of consultants.

The Civil Service Commission now operates the computerized Central Personnel Data File and will operate the expanded Federal Personnel Management Information System it is developing for implementation in the 1980s. The purpose of these systems is to accumulate data on individuals who serve as Federal employees under all types of appointments.

The Office of Management and Budget, Committee Management Secretariat will continue to operate its partially computerized system to accumulate data on advisory committees.

At present there is no centralized body of information on services purchased under contractual arrangements. The computerized Federal Procurement Data System, now being developed for this purpose by the Office of Management and Budget's Office of Federal Procurement Policy to provide information on individual contracts in excess of \$10,000, is not expected to be operational until late 1978. We believe agency systems should be capable of

providing summary information on the total number and cost of consultant contracts less than \$10,000.

We understand that the Office of Federal Procurement Policy has explored the possibilities of having either the Department of Defense or the General Services Administration operate the Federal Procurement Data Systems Center, but apparently this matter has not been resolved. We are not aware of any studies that may have been made by these or other agencies on the cost and feasibility of operating this system.

In summary, we believe that a uniform information system is needed to provide visibility on how extensively Federal agencies are using consultants and a tool for improving management of their use. We further feel that the backbone for such an information system is already in existence.

This completes our formal statement, Mr. Chairman. I will be glad to respond to any questions regarding our comments.

ATTACHMENT 1

ATTACHMENT 1

DEPARTMENT OF COMMERCE
CATEGORIES OF PROFESSIONAL EMPLOYEES

Motion Picture Producer	Professional Artist
Economist	Metalurgist
Accountant	Technical Writer
Certified Public Accountant	Transportation Specialist
Marine Engineer	Contract Specialist
Electrical Engineer	Professional Actor
Civil Engineer	Composer
Chemical Engineer	Molecular Chemist
Radio Engineer	Physicist
Mechanical Engineer	Chemist
Fire Safety Engineer	Biochemist
Aeronautical Engineer	Biologist
Avionics Engineer	Teacher
Computer Programmer	Educator
Computer System Analyst	Physician
Meteorologist	Nurse
Geologist	Pathologist
Oil Geologist	Radiologist
Marine Geologist	Architect
Geographer	Naval Architect
Oceanographer	Attorney
Hydrologist	Patent Attorney
Geophysicist	Sociologist
Professional Photographer	Astronomer
Fashion Designer	Forester
Professional Writer	Mathematician
Psychologist	Linguist
Astrophysicist	Dentist
Interior Designer	Librarian
Geodesist	Ecometrician
Cinematographer	Microbiologist
Seismologist	Cardiologist

TOTAL = 64 Categories

EXAMPLES OF
CONSULTANT SERVICES AND OTHER SERVICES

CONSULTANT SERVICES (ADVISORY TO GOVERNMENT AGENCIES ONLY)

Studies or evaluations of agency operations or programs to produce oral or written reports expressing opinions and/or advice.

Architect or engineering services to produce opinions or advice on alternative designs or processes.

Medical services to evaluate and comment on proposed programs.

Evaluation of effectiveness of programs of assistance to the public or foreign governments to produce opinions and recommendations for action.

Studies designed to propose installation of revised management improvement systems or employee training courses.

Evaluation of vocational guidance services provided veterans.

Studies of agency equipment needs to produce advice on purchase or rental.

ATTACHMENT 2

ATTACHMENT 2

OTHER SERVICES (RELEVANT TO CARRYING ON
AGENCIES' OPERATIONS OR PROGRAMS)

Any service that contributes to execution of any agency's operations or carrying on its programs.

Implementing action recommended by consultants and approved by agency officials.

Architect or engineering services supervising construction.

Medical diagnostic or therapeutic services provided patients.

Advisory services provided directly to the public or foreign governments as part of an agency's programs of assistance.

Installing management improvement techniques or programs.

Designing, administering, or conducting employee training courses.

Audits made by Certified Public Accountants.

Vocational guidance services provided veterans.

Operating Government-owned facilities.

Installing or testing equipment or training employees in its operation.

Translation or stenographic services.

ATTACHMENT 3

EXAMPLES OF DATA ELEMENTS FOR A UNIFORM INFORMATION SYSTEM ON CONSULTANT SERVICES

Uniform data elements	System	
	FPDS (contracts)	CPDF (appointments)
Agency and agency sub-element	Agency	Agency
Name or identification number	Contractor identification code	Name and social security number
Type of consultant service	Service code	Occupational code 1/ Statement of committee function
Cost	Total dollars obligated	Daily rate of compensation and total amount paid 2/ Total annual costs
Effective date	Effective date of award	Effective date of appointment
Authority used	Contracting authority	Appointing authority 2/ Authority to establish advisory group
Where work is performed	Principal place of performance	Geographical location code N/A
Where records are maintained	Purchasing or contracting office	Personnel office Committee management office

Most of these elements represent data that is reported into the CPDF and Federal Advisory Committee systems, and is planned to be reported into the FPDS when it is implemented.

1/CPDF could be modified to distinguish between experts, consultants, and advisory committee members.

2/This data element is not currently available but could be provided.