

## DOCUMENT RESUME

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**More Effective Action Is Needed on Auditors' Findings: Millions Can Be Collected or Saved.** FGMSD-79-3; B-160759. October 25, 1977. 30 pp. + 5 appendices (17 pp.).

Report to the Congress; by Elmer B. Staats, Comptroller General.

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Under various programs, the Government relies on audit as the basic tool for preventing unauthorized expenditures and seeing that the intent of the Congress is carried out. GAO and the Office of Management and Budget (OMB) have formulated requirements for managers to take prompt action to decide what should be done and to complete corrective measures, as necessary, on auditors' findings. Findings/Conclusions: The lack of a good system for resolving auditors' findings could be very costly. An examination disclosed that \$4.3 billion in audit findings contained in nearly 14,000 audit reports of 34 agencies had not been resolved. About 80% of this amount involved potential recoveries from grantees and contractors, and the remainder involved potential savings in operating costs. Some of the findings were unresolved for as long as 10 years. Under the present system, the officer who has the final word on settlement of audit findings is usually an administrator of the program that was audited. These officials have given resolution of audit findings low priority, often decide not to pursue recoveries without adequate explanation or legal advice, and often do not aggressively seek collection or savings needed for final resolution. Few agencies have adequate systems for tracking and resolving audit findings, and many agencies have not followed OMB policy to establish timeframes for responding to audit recommendations. Recommendations: Agencies having audit staffs should establish the following system for resolving audit findings: require agency auditors to keep accurate records of findings until a final disposition has been made; give program administrators 6 months to reach decisions on the amount due from grantees or contractors as the result of audit findings and

require written decisions signed by the program administrator to justify not seeking collection; assign responsibility to an official independent of the program administrator for deciding whether to make recoveries on findings not decided on within the 6-month period and require justification of such decisions; require such officials to issue quarterly reports to the agency head on the status of findings; establish accounting and collection controls for amounts due as a result of audit findings; and if the agency decides against collection, take action to resolve causes which resulted in the debt. (HTW)

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BY THE COMPTROLLER GENERAL

# Report To The Congress

OF THE UNITED STATES

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## More Effective Action Is Needed On Auditors' Findings — — Millions Can Be Collected Or Saved

The lack of a good system for resolving auditors' findings could be costing the Government hundreds of millions annually--most of which grantees and contractors are keeping although they are not entitled to the funds under applicable laws and regulations. Also, sizable savings in operating costs are sometimes being foregone by failure to act promptly on findings involving internal agency operations.

GAO believes a significant procedural change is needed to strengthen audit as the basic tool for preventing unauthorized expenditures and seeing that the intent of Congress is carried out. This change can be accomplished by controlling actions on audit findings more effectively. GAO believes that, among other controls, agencies should require documentation and written legal concurrence on decisions not to pursue recovery of amounts due the Government as a result of audit findings, and provide for an independent official to pursue the resolution of findings if the designated program official does not complete action within six months.





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

B-160759

To the President of the Senate and the  
Speaker of the House of Representatives

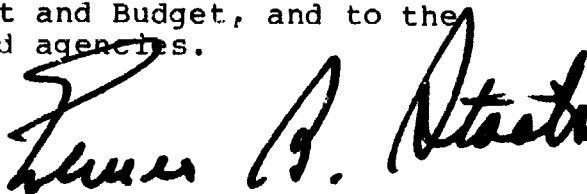
This report describes ways that Federal agencies can achieve greater collections and savings by more effectively resolving auditors' findings. It shows that departments and agencies have a backlog of over \$4.3 billion in unresolved audit findings, and that failure to take appropriate action on audit findings can be costing the Government hundreds of millions of dollars a year. It points out that significant administrative changes and accounting controls are needed to insure that Federal officials take corrective action as necessary on audit findings.

We made this review as part of our current effort to expand and strengthen audit activities of Government departments and agencies. We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The act of 1950 requires us to consider the effectiveness of any agency's internal controls, including internal audit, in determining the extent and scope of our examinations.

We asked the Departments of Commerce; Defense; Housing and Urban Development; Labor; and Health, Education, and Welfare; and the Environmental Protection Agency, as well as the Office of Management and Budget for their comments. Comments from the Office of Management and Budget, dated October 19, 1978 (see app. I), promised corrective action. Appendix II is a letter from the Director, Office of Management and Budget, to department and agency heads urging prompt action on the findings in this report.

As of October 23, 1978, comments had not been received from the Departments of Defense; Labor; and Health, Education, and Welfare; and the Environmental Protection Agency. Consequently, comments from all six agencies along with our evaluation, will be issued under separate cover when they all have been received.

We are sending copies of this report to the Director, Office of Management and Budget, and to the heads of other departments and agencies.

A handwritten signature in black ink, appearing to read "James B. Stacks". The signature is written in a cursive, somewhat stylized font.

Comptroller General  
of the United States

COMPTROLLER GENERAL'S  
REPORT TO THE CONGRESS

MORE EFFECTIVE ACTION  
IS NEEDED ON AUDITORS'  
FINDINGS--MILLIONS  
CAN BE COLLECTED OR  
SAVED

D I G E S T

Under various programs, the Government relies on audit as the basic tool for preventing unauthorized expenditures and seeing that the intent of the Congress is carried out. Accordingly, the Congress and agencies have continually provided for audits of grantees' and contractors' records as the primary mechanism to keep funds from being spent for unauthorized purposes. Auditors also direct their attention to identifying policy and procedural changes that can produce sizable savings.

To insure that audits are effective, GAO and the Office of Management and Budget (OMB) policies spell out requirements for managers to take prompt action to decide what should be done and to complete corrective measures as is necessary on auditors' findings.

GAO found that the lack of a good system for resolving auditors' findings could be costing the Government hundreds of millions of dollars annually--most of which grantees and contractors are keeping although they are not entitled to these funds under applicable laws or regulations. Also, sizable savings in operating costs are sometimes foregone by failure to act promptly on findings involving internal agency operations. (See p. 4 to 12.)

GAO's examination disclosed that \$4.3 billion in audit findings, contained in nearly 14,000 audit reports of 34 agencies, had not been resolved. GAO estimates that about 80 percent of this amount involves potential recoveries from grantees and contractors, including what they either spent for purposes not authorized by Federal laws and regulations or could not support as charged to the Government.

The remaining 20 percent involves potential savings in operating costs. (See p. 4.)

The totals listed above are not all the unsettled audit findings. The actual number or amount is unknown. Further, GAO was unable to determine how old the unresolved findings were because such data was not available. GAO partially identified findings of at least one-half billion dollars remaining unresolved for 2 years or more. Some were unresolved for as long as 10 years. (See p. 4.)

GAO's detailed study at six major agencies showed that resolution drags out for years, averaging about 1-1/2 years and taking as long as 5 years for selected reports. GAO also found that agency officials often resolved valid findings in the grantee's or contractor's favor without adequate explanation, allowing them to claim and keep 62 percent of the amount which auditors reported as questionable. Further, even when officials agreed with the auditors, they actually collected less than half the amount due the Government. (See pp. 5 to 12.)

The study also showed several reasons why the present system for resolving audit findings is not effective. Under this system, the officer who has the final word on the settlement of audit findings is usually an administrator of the program or operation that was audited. It is these officials who often have failed to act promptly on audit findings and in many cases have not recovered the funds returnable to the Government. (See pp. 13 to 27.)

#### LOW PRIORITY

GAO believes these officials find the task of resolving audit findings onerous and therefore of low priority. (See pp. 16 and 17.) For example, for 5 years administrators simply did not take the necessary time to collect \$3 million overpaid to a contractor.

Recovery will be difficult because the agency no longer does business with the contractor. (See pp. 6 and 16.)

#### INADEQUATE JUSTIFICATION AND LEGAL ADVICE

Although sometimes inconsistent with their main duties, agency administrators have the final word on settlement of auditors' findings. They often decide not to pursue significant dollar recoveries from grantees and contractors without adequate explanation or proper legal advice. (See pp. 17 to 19.) For example, administrators allowed a grantee to claim \$4.4 million for medical services which auditors determined should have been paid partially by private insurance companies. Without seeking legal advice, administrators cited potential legal problems as the reason. (See pp. 8 and 18.)

#### NOT AGGRESSIVELY SEEKING COLLECTIONS OR SAVINGS

Agency administrators often do not aggressively seek collection or savings needed for final resolution. Basically, agencies have not established accounting and collection control over amounts to be recovered from auditors' findings. (See pp. 19 and 20.) For example, administrators had allowed the statute of limitations to expire before attempting to collect \$1.5 million that auditors recommended a grantee return to the agency. An agency official said there was no attempt because of the uncertainty about the collectability of the funds. For the same reason, administrators did not seek collection of another \$121,000. (See p. 19.)

#### SYSTEMS ARE DEFICIENT

Few agencies have adequate systems for tracking and resolving audit findings, resulting in inadequate resolution. Contrary to OMB policy, many agencies have not established time frames for responding to audit recommendations and lack adequate reporting systems to inform



agency management of actions taken on audit reports. Also, their systems did not track resolution to final settlement. Where the recovery of the funds is involved, this means until the funds are recovered, the debt forgiven, or the finding determined to be in error. (See pp. 20 to 25.) For example, because of an inadequate system for resolving audits of subgrantees, some 10 months later agency managers had not decided on the merits of a grantee's decision to allow a subgrantee to claim \$4.6 million despite evidence the subgrantee may have violated Federal regulations. The subgrantee was also a member of the grantee's audit review committee which decided to allow the costs. (See p. 23.)

### CONCLUSION

It is apparent that the current system of letting the program administrators have the last word in resolving audit findings has not proven effective. GAO believes OMB should expand its policies to provide for a significant procedural change which would remove final responsibility for deciding on findings from the administrators.

GAO believes such a change, as discussed in its recommendations, would also encourage auditors to improve their performance and provide managers with more prompt and complete reports.

### RECOMMENDATIONS

GAO recommends to each of the agencies having audit staffs that the following system for resolving audit findings be established:

1. Agency auditors be required to keep accurate records of all findings until a final disposition has been made--where recovery of funds is involved this means until the funds are recovered, the debt forgiven, or the finding determined to be in error.

2. Program administrators be given 6 months to reach decisions on what amount, if any, is due from grantees or contractors as the result of audit findings. Written decisions signed by the program administrator be required to justify not seeking collection of any amounts shown to be due by the auditors' report. Such decisions should also be reviewed for legality and endorsed by the legal official who performs the review.
3. An official independent of the program administrator and the auditor be responsible for deciding whether to make recoveries on findings not decided on within the 6-month time frame specified above. Any decisions not to recover should be justified by the official and reviewed for legality as previously mentioned. GAO believes this official, who should be at a high level in the organization, could also handle resolution of audit findings not involving grantees or contractors that are not resolved within a 6-month period.
4. Such officials be required to issue quarterly reports to the agency head on the status of all findings which they are responsible for resolving, including the age and amounts of unresolved findings and results of findings they closed during the period.
5. To insure aggressive recovery efforts, GAO recommends that accounting and collection controls be established for any amounts due the Government as a result of audit findings.
6. If the agency decides against collection for any reason, then it should take action to resolve the underlying causes which resulted in the debt. These can include providing technical assistance to help grantees improve operation of the program or changing ambiguous or conflicting

regulations which impede accomplishing  
program objectives.

GAO also recommends that OMB make appropriate  
changes to its management circulars to establish  
the requirements recommended above.

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## ABBREVIATIONS

DCAA	DEFENSE CONTRACT AUDIT AGENCY
EPA	ENVIRONMENTAL PROTECTION AGENCY
GAO	GENERAL ACCOUNTING OFFICE
HEW	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
HUD	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OMB	OFFICE OF MANAGEMENT AND BUDGET

## CHAPTER 1

### INTRODUCTION

Federal departments and agencies manage scores of programs worldwide, including over 1,000 Federal assistance programs consisting mostly of grants for which the Federal Government spends billions annually.

A major concern regarding all Government programs is that funds appropriated to carry them out are spent for unauthorized purposes. When the funds are spent directly by the Government, the funds come under the control of Federal appropriation accounting and the rules established by the Comptroller General, the Office of Management and Budget (OMB), and the Department of the Treasury. While not foolproof, the Government accounting systems provide a fairly high level of assurance that the funds appropriated are not spent for unauthorized purposes. When the Government spends the funds through grantees or contractors, 1/ it does not have the same level of assurance that expenditures will be limited to authorized purposes.

Audit is the basic control the Government has to prevent unauthorized expenditures by grantees and contractors. The Congress and agency management have continually provided for audits of grantees' and contractors' records as the basic mechanism to keep funds from being spent for unauthorized purposes. Auditors also direct their attention to whether operations are conducted economically, efficiently, and effectively and often identify policy or procedural changes that can produce sizable reductions in expenditures without reducing the quality of Government services.

Each of the large Federal agencies has one or more audit staffs as a part of its organization. These auditors not only audit the grants and contracts, but the agencies' own receipts, expenditures, and internal operations as well. Under audit standards established by the Comptroller General, auditors examine the agency records to determine whether

--financial transactions, accounts, and reports are accurately presented and in compliance with applicable laws and regulations;

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1/The reference here is to the various forms of cost-type contracts under which the Government reimburses the contractor for costs incurred.

--resources are used efficiently and economically;  
and

--programs and activities are effectively achieving  
desired results.

A major part of this work involves determining whether the agencies' system of internal control is functioning effectively to prevent errors, fraud, and other improprieties.

Within the Federal audit community, it has become standard practice to call audits of the agencies' own records "internal audits" and audits of contractors' or grantees' records "external audits."

External audits often identify sizable amounts returnable to the Government from contractors who have claimed costs that are not allowable under Government contracting regulations, and grantees who have not met matching requirements or other terms of their grant agreements. The auditors question such amounts in their audit reports which are sent to agency management for resolution by collection or other means. If management decides that the grantee or contractor is not entitled to the questioned amounts, they become debts due the Government.

#### ROLES OF AGENCY MANAGERS AND AUDITORS

Management's responsibility for resolving audit findings has been spelled out in OMB Circular A-73. The circular requires that managers take prompt action to decide what should be done and to complete corrective measures as is necessary on auditors' findings. As a means of control, the circular requires agencies to establish time frames for managers to act on the findings and to keep records of actions taken.

The "General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies" (title 3, sec. 40) has similar requirements. The manual also states that internal auditors should participate in the followup activities to see if their findings have received serious management consideration and whether satisfactory corrective action has been taken. It further states that when operating officials disagree with internal auditors' findings, a mechanism should exist to call for a decision at a higher management level.



## SCOPE OF REVIEW

In reviewing management's actions to resolve audit findings, we obtained statistics on unresolved audit findings and data on related policies from 34 Federal departments and agencies. (See app. III and IV.) Using the data, we evaluated agency compliance with OMB Circular A-73 with regard to its requirements for resolving audit findings. We also discussed the circular requirements with OMB officials.

To illustrate what is happening Government-wide, we examined the timeliness and appropriateness of agency officials' actions to resolve findings in audit reports pertaining to or issued by the following organizations.

- Department of Commerce.
- Defense Contract Audit Agency (DCAA).
- Environmental Protection Agency (EPA).
- Department of Health, Education, and Welfare (HEW).
- Department of Housing and Urban Development (HUD).
- Department of Labor.

Using mostly random selections, we examined 228 audit reports, both open and closed, and determined what corrective actions were taken by agency administrators and contracting officers. We also reviewed recent GAO and agency reports concerning resolution of audit findings.

Our approach was Government-wide, and individual agencies were not the primary focus of this review. The agencies named in the examples of this report are not the only agencies where conditions described in this report exist. Also, the amount of work we did at each agency varied. At EPA, we reviewed a few closed audit reports to determine whether improvements in audit resolution had been made since our 1975 report. At Defense, we reviewed DCAA postaward audits, consisting mainly of overhead and incurred costs reviews.

## CHAPTER 2

### MILLIONS IN AUDIT FINDINGS ARE NOT COLLECTED;

#### RESOLUTION OF OTHERS DRAGS OUT FOR YEARS

Although OMB policy calls for prompt action on audit findings, our review disclosed that the opposite is often true. A large number of audit findings are not resolved and collections are not made for years after the audit report is issued. In more than half of the cases, no collections are made.

We found 16,300 audit reports containing numerous findings that had not been resolved at the 34 agencies whose records we examined. Of these 16,300 reports, nearly 14,000 involve either potential recoveries of funds from grantees and contractors or cost savings totaling over \$4.3 billion. The others involve changes in procedures or other improvements that are intended to improve the economy, efficiency or effectiveness of agency operations but for which a savings in cost either would not result or for which the amount of such savings cannot be estimated accurately. 1/

The totals listed above are not all of the unsettled audit findings. Some agencies do not keep accurate track of unresolved audit findings. We were unable to find out how many there were at such agencies and the amounts of potential recoveries or savings involved. We discuss this matter further in chapter 4.

Further, we were unable to determine how old the unresolved audit findings were because such data was not available. We partially identified at least \$1/2 billion remaining unresolved for 2 years or more. Some were unresolved for as long as 10 years.

We estimate that about 80 percent of the \$4.3 billion involves potential recoveries from grantees and contractors as opposed to savings in internal agency operations. These potential recoveries consist of amounts which auditors

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1/Although savings are not estimated, we recognize that such findings are often based on carefully thought out audit steps supplemented by a good deal of analytical work. Changes that result can have a significant dollar or operational impact.

found were paid to grantees and contractors in excess of what was allowable, including such amounts that recipients spent for purposes not authorized by Federal laws, regulations, and the terms of grants and contracts. It also includes amounts questioned by the auditors that were paid to grantees and contractors whose accounting systems were inadequate to properly support the amounts charged to the Government.

A partial listing of the unresolved findings by agencies follows.

<u>Department/ agency</u>	<u>Amount of potential recoveries of funds or other identifiable benefits</u>	
	<u>Total</u>	<u>Unresolved about 1 year or longer</u>
	(millions)	
Commerce	\$ 23.7	\$ 11.6
Defense (DCAA audits)	1525.3	627.9
EPA	43.1	(a)
HEW	193.4	70.9
HUD	200.2	31.8
Labor	165.4	135.7

a/Not available.

To find out how resolution of audit findings was being handled, we selected 228 audit reports, mostly at random, for detailed study. Our selection was divided between reports agencies considered open and closed, as noted later by other tables in this chapter. The 228 cases were divided by agency as follows:

Commerce	48
Defense (DCAA audits)	43
EPA	7
HEW	45
HUD	35
Labor	<u>50</u>
Total	<u><u>228</u></u>

## LONG DELAYS IN RESOLVING AUDIT FINDINGS

The difficulty of resolving audit findings varies widely. Administrators encounter various problems in effecting corrective actions designed to achieve the recovery of funds, savings, or other improvements. Accordingly, it is not possible to set a firm standard for how long it should take to complete action on such findings.

We recognize that some delays are unavoidable, such as instances when grantees and contractors do not cooperate with Federal resolution efforts. However, we believe that in most agencies this process is taking too long. The following statistics show how long such resolutions take in the agencies included in our detailed study.

<u>Agency</u> <u>(note a)</u>	<u>Number</u> <u>of open audit</u> <u>reports reviewed</u>	<u>Amount of</u> <u>findings</u>  (millions)	<u>Number of months</u> <u>audit findings</u> <u>unresolved</u>	
			<u>Average</u>	<u>Range</u>
Labor	28	\$12,854	25	2 to 66
Commerce	28	1,188	22	3 to 52
Defense (DCAA audits)	23	18,823	16	2 to 39
HEW	24	13,051	10	3 to 24
HUD (note b)	15	1,068	8	4 to 18

a/EPA was not included in this chart because its regional tracking and control records showed that the reports we reviewed were closed.

b/HUD made audit resolution a departmental priority, thereby significantly reducing the time frames for resolving some audit findings.

Some examples of individual findings that were not promptly resolved follow.

--Five years after Labor auditors questioned the allowability of \$3 million claimed by a contractor, program officials finally agreed with the auditors. Recovery will be difficult, if not impossible, because of the delay and because the agency no longer does business with the contractor.

- For 19 months, HEW administrators did not send a demand letter to a grantee for recovery of \$2.1 million, resulting in a \$1.5 million loss because the statute of limitations expired.
- In another case, a followup audit at HEW showed that an overpayment of \$155,000 had been recovered by administrators, but the underlying deficiency which led to the overpayment had not been corrected since the prior audit, causing still more overpayments to the grantee.
- At EPA, an administrator was not actively seeking recovery of over \$300,000 nor correction of system deficiencies reported over 3 years earlier.
- In another EPA case, involving \$90,000, an administrator did not seek resolution for 39 months.
- After 17 months, a Defense Logistics Agency contracting officer remained undecided on \$308,000 of a contractor's costs which DCAA auditors questioned.
- At HUD, administrators agreed with auditors that a grantee was overpaid \$270,000. Ten months later the money had not been recovered. They do not expect to seek collection for another year.
- An administrator at Commerce failed to act for nearly 2 years to recover \$45,000 which auditors found was overpaid to a contractor. The contractor has gone out of business and recovery is very doubtful.
- In another Commerce case, an administrator has not resolved \$40,000 of a contractor's costs for 3 years, even though the agency has entered into a follow-on contract.

#### QUESTIONABLE RESOLUTION OF AUDIT FINDINGS

We also found that many audit findings are never adequately resolved. Thus, the Government does not recover funds due it or fails to reap the benefits of internal improvements that save money or improve efficiency.

The following schedule shows questioned costs in audit reports considered resolved by agency officials and the costs the officials allowed at six major agencies.

<u>Agency</u>	<u>Number of closed audit reports reviewed</u>	<u>Costs questioned</u>	<u>Costs allowed</u>	<u>Percentage of questioned costs allowed</u>
(000 omitted)				
HEW (note a)	21	\$ 9,571	\$ 9,309	97
EPA	7	1,015	852	84
Labor	22	1,228	1,019	83
Commerce	20	496	377	76
HUD	20	264	102	39
Defense (DCAA audits) (note b)	20	<u>6,635</u>	<u>430</u>	<u>7</u>
		<u>\$19,209</u>	<u>\$12,089</u>	<u>62</u>

a/The cases GAO reviewed were selected on a random sample basis, except for one large case, and covered FY 1976-77. HEW has advised us that their own statistics for a longer period show a markedly different result, 28 percent allowed during 1971-1976. However, we did not have an opportunity to review their calculations prior to the issuance of this report.

b/Although several factors may be accounting for the military's performance, we believe contributing factors for postaward audits we reviewed are that contracting officers often requested such audits for a specific use and their decisions are sometimes reviewed by local Defense components.

We have doubts about the propriety of 88 percent of the costs allowed. Further, even when officials agreed with auditors and disallowed the cost, they actually collected less than half the amount.

Some examples of questionable resolution of cases in which agency officials forgave amounts or conditions that auditors had reported as questionable or unallowable follow.

--HEW administrators concurred with audit findings disclosing over \$4 million in improper expenditures but ultimately allowed almost all the costs. The administrators reversed their position after the grantee disagreed with the finding. They did not provide enough information for HEW auditors and GAO to clearly understand how or why their position changed.

--Rather than facing an uncertain collection effort, HEW administrators allowed a grantee to claim \$4.4

million for medical services which auditors determined should have been paid partially by private insurance companies.

- In another case, HEW administrators' recovery of \$4.3 million resulting from an audit finding is uncertain because of the collection method. Instead of directly reducing Federal funds, they will offset the debt against undetermined future costs of the grantee. Specifically, they adjusted downward indirect cost rates for 2 future years. This makes recovery uncertain because it depends on the size of the direct cost base which was undeterminable for those 2 years at the time of the agreement.
- In two cases, recovery of \$1.5 million and \$121,000 was lost at HEW because administrators allowed the statute of limitations to expire before seeking collection action. In the first case, officials prepared a demand letter after auditors found that a grantee should return \$2.1 million to the agency. Nineteen months later, officials finally issued the letter but reduced their demand to \$598,000 because the statute of limitations precluded recovery of the rest. During our review, the case was pending settlement by the agency's appeal board. In the other case, according to an administrator, a demand letter informing the grantee of the unauthorized expenditures was not sent.
- An HEW administrator overlooked a grantee's accounting and administrative weaknesses, including the grantee's failure to make the community fully aware of the Federal program's existence. Auditors reported the same deficiencies in an earlier report and the administrator expects the auditors to have similar findings during the next audit.
- Commerce and Labor administrators allowed \$3 million out of \$4 million in grantee and contractor costs which auditors determined could not be supported. Administrators allowed such costs sometimes without further documentation and frequently after receiving additional information which was not audited.
- Commerce and Labor auditors questioned \$621,000 in grantee and contractor expenditures which agency officials did not approve beforehand as

required. We found that agency officials routinely approved such costs retroactively on the basis that the costs were reasonable and consistent with award objectives. This action nullified the prior approval provisions which agencies established to prevent unwise and improper expenditures.

--Acting contrary to Federal regulations, Commerce and Labor officials allowed recipients to claim in various cases about \$18,000 in expenditures which auditors found they incurred outside the appropriate grant or contract periods. In one case, administrators made this allowance after previously warning a grantee that such practices would not be permitted.

--Rather than require payments from grantees, Commerce and EPA administrators settled \$50,000 in debts resulting from audits by correspondingly increasing budget items or substituting unaudited expenses to exactly offset the debts. The net effect was no change in funding.

--An EPA administrator rejected an audit finding questioning a recipient's expenditure of \$454,000 in Federal grants and contracts. Auditors found that the recipient was making unsupported charges and shifting expenditures among the various agreements. Without requiring the recipient to respond, the administrator rejected the audit finding because the amount questioned was not broken down by individual grants and contracts.

--An Army contracting officer did not reduce a contractor's claim of \$410,000 which auditors questioned as an overcharge to the Government. This was done despite the auditors' evidence that the contractor did not furnish accurate, complete, and current information.

--Under a Commerce grant, one grantee failed to meet the 25-percent matching requirement. Agency auditors calculated that the grantee owed the Federal Government \$386,000. Agency administrators decided not to require \$288,000 of the matching fund because the grantee was in poor financial condition.

--Under another Commerce grant of \$148,000, administrators did not require a grantee to correct major financial system weaknesses. Auditors found



that the grantee could not support its expenditures and also commingled Federal and non-Federal funds in one bank account.

- Commerce officials overlooked \$9,000 when seeking an audit recovery from a grantee. After we brought the oversight to their attention, they agreed to seek the additional amount.
- Six months after he sent the initial demand letter, a HUD administrator was taking no action to collect \$185,000 which auditors found that a grantee owed the agency.
- A HUD administrator forgave a grantee for \$35,000 in excessive interest costs. Auditors found that these costs resulted from the grantee's failure to provide local funds according to Federal regulations.
- For a year, Labor officials did not seek collection of \$23,000 from a grantee as auditors had recommended. This occurred even though the officials agreed with the audit recommendations.
- Labor administrators did not recover \$20,000 from a grantee when auditors determined such costs were questionable. Even though they acknowledged that the costs were unallowable, they allowed the grantee's claim for reimbursement.

DELAYS IN RESOLVING OR FAILURE TO RESOLVE  
AUDIT FINDINGS IS VERY COSTLY

Substantial amounts of money are lost because the Government is not promptly resolving audit findings, and in some cases it does not resolve them at all. Where grants and contracts are concerned, the effect is twofold. First, where delays occur, the Federal Government is denied the use of funds for long periods. This can increase interest costs since if the Treasury had the funds sooner it could use them to meet governmental needs, instead of borrowing. Second, when the Federal Government does not make proper recoveries, it loses funds which under the law belong to the Federal Government. What happens in such cases is that the grantee or contractor gets money he is not entitled to and gets favored treatment over all others who comply with applicable laws and regulations. Such actions also are often contrary to the will of the Congress

which has set the terms in the law by which grantees or contractors become entitled to the money. If they do not meet these terms, they have no legal right to keep it.

We were unable to make sound estimates of the aggregate amount the Government has lost, but we believe it is very substantial. In this respect, program administrators forgave grantees and contractors over half of all questioned costs according to our study. In our judgment, their basis for doing so was either invalid or questionable in a very large percentage of the cases. Considering that auditors' findings total several billion dollars, we believe that the losses to the Government are also very substantial--probably in the hundreds of millions annually.

A similar situation exists for findings in which internal Federal costs can be saved by taking action on auditors' findings for improving efficiency and economy. For every day a needed improvement is delayed, the Government incurs unnecessary cost.

### CHAPTER 3

#### PROCEDURES FOR RESOLVING AUDIT FINDINGS

Although there are variations among individual agencies, the general procedures followed for resolving audit findings are very similar. After the auditor's work is completed, he obtains comments of those directly affected--grantees, contractors, or internal agency officials. His completed report, including these comments, is then turned over to agency management for action.

Within agency management, the officer designated to act on the report is usually a program administrator (for grants), a contracting officer (for contracts), or a similar level agency official for matters involving change in internal agency practices. As indicated in chapter 2, it is these officials who often have failed to act promptly on the audit findings and in many cases have not recovered the funds returnable to the Government.

When operating officials and auditors disagree on proposed solutions, agencies typically have procedures for reconciling the differences at higher management levels. Likewise, when grantees and contractors disagree with corrective actions imposed upon them by Federal managers, some agencies maintain an appeals board to settle issues. Specifically, OMB Circular A-73 requires agencies to

- establish policies for following up on audit recommendations,
- maintain a record of the actions taken,
- designate time schedules for responding to and acting on audit recommendations,
- submit periodic reports to management on recommendations and actions taken, and
- designate persons to follow up on audit recommendations.

Although the Federal administrators are empowered to make final decisions on amounts to be recovered from grantees and contractors, there are limitations on their authority. Such decisions must be based on Federal laws, regulations,

and the terms of grants and contracts. In this regard, a recent Comptroller General decision (B-163922, Feb. 10, 1978) discusses an agency's responsibility for collecting improper expenditures which auditors questioned. It states that an agency (without explicit statutory authority to do so) cannot waive recovery from a grantee for expending Federal grant funds in violation of its regulations, no matter how well intentioned the grantee may have been when incurring such costs. This decision holds regardless of the recipient's good faith or the Government's bad advice. (See app. V.)

Such expenditures become debts due the Federal Government and therefore should be recovered. Accordingly, the decision states that:

"All agencies are required to take 'aggressive action' to collect amounts due under claims resulting from activities of the agency concerned pursuant to the Claims Collection Act, 31 U.S.C. S 951 et seq. (1970), and implementing regulations, 4 C.F.R. S 102.1 et seq \* \* \*."

When unable to obtain payment, an agency's responsibilities under the claims collection regulations include offsetting debts against other Government funds the debtor may receive. Also, the regulations state that agencies should suspend funding of recipients who refuse to pay their debts to the Government.

## CHAPTER 4

### WHY AGENCIES DO NOT TAKE PROMPT OR EFFECTIVE

#### ACTION TO RESOLVE AUDIT FINDINGS

As indicated in the preceding chapter, established procedures require agency administrators to act promptly and effectively to resolve auditors' findings. However, they often have not done so.

We noted several reasons for their failure to act promptly or effectively in this matter. The main causes were as follows:

- Administrators are busy with other duties, and resolving findings has low priority. Department and agency heads generally have not emphasized to their employees the importance of audits as a means of safeguarding funds and improving Government operations.
- Administrators reject audit findings and recommendations without suitable justification and do not always seek needed legal or other expert advice.
- Agency efforts to recover funds and realize savings are not aggressive. Basically, they have not insured collection action by establishing accounting and collection control over amounts to be recovered from grantees and contractors.
- Agency systems for tracking and resolving audit findings are deficient.
- Deficiencies in auditors' work sometimes make prompt and effective action difficult. Also, auditors could do more to see that action is taken on their findings. More specifically, they do not always (1) fully develop audit findings, (2) issue prompt reports, and (3) verify or question the adequacy of administrators' corrective actions.

Each of these causes of delay in action, or lack of proper action on auditors' findings are discussed below.

ADMINISTRATORS DO NOT GIVE RESOLUTION  
OF AUDIT FINDINGS A HIGH PRIORITY

A primary reason for delays in resolving audit findings is because administrators at the agencies we reviewed did not give audit resolution a sufficiently high priority over other duties. Department and agency heads generally have neither emphasized to their employees the importance of audit as a means of improving Government operations, nor their responsibility for recovering amounts paid to grantees and contractors improperly.

Several agency officials and internal reports in two agencies pointed out that program managers were more concerned with starting new projects and keeping them going than with instituting corrective actions. Two of the internal reports are discussed below:

--In August 1975 an Office of Education researcher reported on the tendency for office staff to view audit resolution as an administrative burden. To pursue dollar recoveries is to run the risk of losing grantee friends, to strain relationships with one's colleagues, and to delay other work which may result in criticism for failure to deal with matters of allegedly higher priority. In January 1978 the author said the situation was worse than when the report was written.

--In December 1976 a Labor task force reported that the Department really had no mechanism to resolve audit findings because program managers assigned to the task spent most of their time on preaward and award operations. We noted that the same situation existed during this review.

We also found that agency administrators did not give resolution a priority in a number of audit cases we reviewed. Examples of cases in which agency officials ignored auditors' findings or gave them low priority follow:

--Labor administrators simply did not take the necessary time to promptly collect \$3 million overpaid to a contractor.

--At HEW, administrators simply did not take the time to promptly settle \$2.1 million in

audit issues by sending a demand letter to the grantee involved.

- Because of other duties, a top official at HEW said his staff did not have time to collect funds or correct a deficiency which had led to an earlier overpayment of \$155,000.
- At EPA an agency official cited the crush of other duties as his reason for not seeking resolution of \$300,000. For similar reasons, another EPA official was taking no action involving \$90,000.
- A Defense Logistics Agency contracting officer cited higher priority work and personnel changes for the lack of action on \$308,000 of a contractor's costs.
- A HUD official said his staff was too busy approving new housing projects and would not have time for at least another year to collect \$270,000 which auditors found HUD overpaid to grantees.
- A Commerce official failed to collect \$45,000 overpaid to a contractor. He attributed the slow action to his limited attention to resolving audit findings and his heavy workload. For the same reason, he was not seeking resolution of another \$40,000 in costs claimed by a contractor and questioned by auditors.

ADMINISTRATORS REJECT AUDIT  
FINDINGS WITHOUT ADEQUATE  
JUSTIFICATION OR NEEDED HELP

Questionable resolutions occur because administrators do not adequately justify the basis for rejecting audit findings and do not always seek legal and expert advice when needed. Administrators sometimes do not pursue dollar recoveries from grantees or contractors who auditors find have failed to abide by grant or contract terms, regulations, or statutory requirements. Some officials said this is done to avoid controversy or to assist grantees who are under financial stress. In so doing administrators may be overstepping their authority.

Some agencies permit administrators to exercise wide latitude in forgiving grantees and contractors for questionable expenditures. For instance, Commerce's Office of

Minority Business Enterprise has written policies permitting administrators to not recover funds in question based on a contractor's "good faith." 1/ We noted an attitude of leniency especially among administrators at Labor, HEW, and EPA.

Administrators are not seeking help when needed to properly resolve audit findings. Administrators often improperly resolve accounting and financial matters because they often lack expertise to remedy problems in those areas. Also, they are not always seeking legal guidance when unsure of the legal consequence of their decisions.

Examples of some cases where administrators resolved audit findings with insufficient justifications and advice follow:

- HEW administrators decided not to seek recovery of \$4.4 million overpaid to a grantee. Without evidence of legal advice, administrators cited potential legal problems as the reason.
- In another case, HEW administrators did not provide an adequate explanation for not recovering almost \$4 million of a grantee's costs which auditors questioned.
- An EPA administrator rejected findings involving \$454,000 because auditors did not break down the amount by individual grants and contracts. In our opinion, this reasoning was not adequate.
- An Army contracting officer did not reduce a contractor's claim of \$410,000 which DCAA auditors questioned. Without providing additional evidence, he indicated that the auditors' finding was not the only data he used to make the decision. (DCAA auditors felt this rationale was not adequate to dismiss their finding.)

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1/This policy is contrary to the recent Comptroller General decision (B-163922, Feb. 10, 1978) discussed on p. 14. We are aware that the Community Services Administration, although not one of the agencies we reviewed in detail, has a similar written policy of leniency.



- Commerce administrators did not recover \$268,000 which auditors found that a grantee owed the Government. Without appropriate advice, they reasoned that the debt could be dismissed because the grantee had made its best effort to pay.
- In another case, involving \$148,000, Commerce administrators permitted a grantee's financial weaknesses to continue on the excuse that program funding had stopped; however, the grantee continued to receive funds from the agency under another program.
- On the basis of promised corrective actions, a HUD administrator forgave a grantee for \$35,000 in excessive costs. In our opinion, this basis was not adequate.
- Labor administrators did not recover \$20,000 in unauthorized costs because they reasoned that the grantee incurred the costs in "good faith."

AGENCIES DO NOT AGGRESSIVELY  
SEEK COLLECTION OR SAVINGS

Agency administrators often do not aggressively seek collection or savings needed for final resolution, even when they agree with audit findings.

Agencies we reviewed had not established appropriate accounting or collection control over audit findings. Specifically, when such findings constitute debts due the Government, agencies do not have them set up as receivables in their accounting records or collected in accordance with Federal claims collection standards. (See p. 14.)

Examples of cases when administrators did not aggressively seek collections and savings resulting from audit findings follow.

- HEW administrators had allowed the statute of limitations to expire before attempting to collect \$1.5 million that auditors recommended a grantee return to the agency. An agency official said there was no attempt because of uncertainty about the collectability of the funds. For the same reason, HEW administrators did not seek collection from a grantee of another \$121,000.

--A HUD administrator was taking no action to collect \$185,000 from a grantee because he was more concerned about the project's ability to pay its mortgage bill than in collecting the debt.

--Labor administrators did not seek collection of \$23,000 from a grantee. They cited not knowing who was responsible for such collections as the reason.

--Because of a lack of control, Commerce administrators overlooked \$9,000 when seeking a recovery of funds resulting from auditors' findings. The agency had not established accounting controls, such as identifying the amount as an accounts receivable.

AGENCY SYSTEMS FOR TRACKING AND  
RESOLVING AUDIT FINDINGS ARE DEFICIENT

Few agencies have adequate systems for tracking and resolving audit findings. There is a general lack of control over audit findings resulting in inadequate resolution. The reports generated from the systems included incomplete and inaccurate information on the status of findings and achievements from audits.

Agencies are not complying with  
OMB circular requirements

Although nearly all 34 agencies in our sample claim to be in full compliance with OMB's requirements for audit resolution systems, most agencies are not in full or even substantial compliance. In our judgment, only the Department of the Interior and the Smithsonian Institution appeared to be in substantial compliance with the circular. As shown below, other agencies are deficient in one or more respects. More information on the agencies in our sample and on the deficiencies is contained in appendix IV.

Number of departments  
or agencies

Deficiency

4	No formal policy for acting on audit recommendations.
24	No or incomplete records of actions taken on audit findings.
20	No time frames for responding to or acting on audit reports.

Number of departments  
or agencies

Deficiency

26

No periodic reports to management on the status of actions taken on audit findings or existing reports lack sufficient information.

2

Insufficient data for us to conclude.

Further, we observed that 15 agencies' control records were incomplete because they did not include all audit findings involving their funds or operations. These included federally funded audits which were performed by certified public accountants or by other Federal, State, and local audit organizations.

Agencies are not tracking audit findings until resolution is completed

Agencies allowed audit findings to go unresolved because their systems did not track resolution to final settlement--that is, until actual payment of money owed the Government and upon correction of underlying deficiencies.

Management and audit officials often remove findings from control records and consider them resolved when grantees or contractors agree with the findings and promise to take corrective actions. In many cases, the agency officials may be following an agency policy which controls monetary findings only until the point of determining indebtedness.

Administrators often forget or overlook final settlement when audit findings are prematurely dropped from tracking systems. In addition, top managers assumed that the audit findings were completely resolved when sometimes they were not.

We observed inadequate tracking and control of audit findings at each of the six agencies we reviewed. Some examples are cited below.

--Because the Navy does not track and control the resolution of DCAA audit findings,

a Navy administrator, who recently replaced a retiree, was unaware that \$44,000 in questioned costs and several procedural findings remained unresolved for 26 months. Moreover, the lack of action on the findings during this period caused the overcharges to increase another \$111,000.

- A random selection showed that HUD officials closed 4 of 10 audit reports either without knowing whether grantees repaid disallowed costs or completed promised corrective action. Although we found that grantees did take action in most of these cases, our report of November 25, 1974, to HUD showed adverse effects of this same practice. Our earlier report noted that several thousands of dollars owed to HUD were not paid and deficiencies had not been corrected.
- In recent followup reviews, HEW auditors reported that HEW managers accept promises of corrective action as a basis for ending control. Corrective actions were unfinished in 28 of 47 closed reports. In one case, a fault in a grantee's accounting system caused an overpayment to the grantee of \$183,000. The followup review showed that the amount had not been recovered as promised and the fault still existed.
- In addition, HEW was no longer tracking \$135 million in disallowed costs which grantees were appealing.
- Commerce officials disallowed \$76,000 of a contractor's costs and sent a demand letter for a refund. Based on the letter, Commerce auditors removed the finding from the control records and claimed \$76,000 in "hard" savings. The contractor, however, refused to repay and appealed the decision to the agency's appeals board.
- EPA officials responsible for tracking audit findings in two regional offices told us they stop tracking when program administrators establish the recipients' indebtedness or obtain promised corrective action.

--At Labor, officials removed a \$176,000 audit finding from control records when an administrator agreed with the auditors rather than upon receiving solid evidence that proper adjustments were actually made. Officials could not provide us with what we considered satisfactory evidence that required adjustments were made.

Inadequate systems for resolving findings resulting from audits of subgrantees

Labor officials rely largely on grantees to recover overpayments from subgrantees and insure that subgrantees are adhering to administrative and regulatory requirements. In some cases, Labor officials said they wait until the agency's auditors' next review of the grantee to find out what actions the grantee took to resolve audit issues, although the next audit may not occur for several years. As a matter of policy, officials of one regional component said they do not followup on audits of subgrantees. Thus, unsound corrective actions by grantees may go unnoticed for a long time.

As an example, a Labor grantee permitted a subgrantee to claim \$4.6 million in questioned costs despite evidence the subgrantee may have violated Federal regulations. The subgrantee was also a member of the grantee's audit review committee which decided on the allowability of the costs. Despite possible regulatory violations and the potential conflict of interest, some 10 months later agency managers had not decided on the merits of the grantee's decision to allow the claim.

No means to mediate differences between managers and auditors

Resolution systems which do not provide for final settlement of major disputes between managers and auditors are also deficient.

Auditors at Labor and HEW have recommended that millions of dollars be returned to the Government because program recipients were not complying with basic program regulations. Agencies' managers have not acted to recover the monies because they interpret the regulations more broadly than the auditors or agree with them but determine the rules and regulations to be unenforceable.

At Labor, auditors normally do not check for grantee compliance with certain public employment requirements to create new job opportunities because administrators have not supported their findings in the past. The auditors believe the costs to prove noncompliance to management's satisfaction are too prohibitive.

At HEW, auditors' findings that title I, Elementary and Secondary Education Act funds supplanted rather than supplemented local funding have often been reversed. In a September 1977 report, the National Institute of Education commented on the lack of consistent interpretation within the Office of Education on what constitutes a violation in this area.

OMB circular requirements need  
to be highlighted and expanded

Although the primary problem lies with the failure of agencies to adhere to current OMB requirements, we believe OMB could help improve audit resolution by highlighting its requirements and making them more comprehensive.

Many managers we contacted were not aware of the circular requirements. This may have been because the requirements are contained as a small part of a circular dealing primarily with other aspects of the audit function.

In addition, the requirements for resolving audit findings are not comprehensive. For example, the current policy does not

- instruct agencies to assign a high priority to the resolution of audit findings or provide details on reporting to management;
- specify qualifications and independence requirements for agency officials who resolve audit findings;
- provide guidance for dealing with audit findings, facilitating proper decisions for questioned costs and aggressive recovery of overpayments;
- require complete and accurate tracking and control records and reporting systems to

identify the status of corrective actions, including accounting control as appropriate;

--specify when audit findings should be considered resolved and the appropriate evidence required to stop tracking;

--specify that systems should include a means to resolve audits of all grantees and subgrantees and any differences between managers and auditors over the interpretation of regulations; and

--describe the responsibility of auditors in the audit resolution process.

#### SOME AGENCIES HAVE MADE IMPROVEMENTS

Our sample of cases indicated that HUD administrators generally acted more promptly and effectively to resolve audit findings than officials in the other civilian agencies we reviewed. We believe this can be attributed to HUD's efforts to make audit resolution a departmental priority after issuance of our November 25, 1974, report.

HUD has recently taken additional steps to improve audit resolution. In December 1977 it established a new audit management system for prompt action on audit recommendations. The new system includes an audits resolution committee whose priority is the resolving of long outstanding audit findings.

HEW has recently taken steps to improve audit resolution. Its Inspector General has emphasized to agency heads the need for timely and responsive management actions on audit findings. He also encouraged administrators to develop guidelines for evaluating the effectiveness of actions taken on audit findings. In addition, HEW officials have recently requested our approval of procedures to be followed in controlling and accounting for audit disallowances.

Our sample of DCAA cases, consisting mostly of overhead and incurred costs reviews in the postaward audit phase, showed that military administrators sustained the audit findings most of the time. This contrasted sharply with most civilian administrators' responses to their auditors' findings. Although several factors may be accounting for the military's improved performance, we believe major contributing factors

may be that contracting officers often request DCAA to do specific audits at predominantly profitmaking organizations and their decisions on audit reports are sometimes reviewed by local Defense components.

AUDITORS CAN DO MORE TO  
ENCOURAGE PROPER RESOLUTION

Proper resolution of audit findings could have been facilitated in some cases if agency auditors had reported complete findings, issued prompt reports, and determined and questioned the adequacy of management's corrective action. Although our review concentrated mainly on management's actions, we noted the impact of auditors' practices on some of the cases in our sample.

Auditors' findings are  
sometimes incomplete

We noted that HEW auditors sometimes presented management with incomplete findings which did not include details on potential amounts that grantees should return to Federal agencies. They developed the findings only to the extent of identifying broad system deficiencies without providing the details of questionable expenditures. As a result, administrators do not have complete information available to negotiate a settlement with the grantees. For example, HEW auditors issued a report to agency managers containing findings on the adequacy of a university's procedures for charging direct costs to Federal grants and contracts and the reasonableness and allowability of such charges. The auditors did not quantify the costs which they believed were questionable or inappropriate but instead recommended that the university do so. After several exchanges between agency and university officials, the university agreed it would provide additional information so that unallowable costs could be developed. Nearly a year after issuing the report, the unallowable costs still had not been determined.

Some audit reports are  
not issued promptly

Audit reports are sometimes issued long after the expiration of grants and contracts. We noted that Labor auditors issued several reports a year or more after grant and contract expirations. HEW auditors' reports were also late sometimes. Generally, management officials told us that when audit reports are issued late, it



seriously handicaps their ability to resolve audit identified issues.

Auditors do not always verify or question corrective actions

Auditors do not always verify whether corrective actions are taken until the time of the next audit, which may be years away. We noted this practice to a degree in all agencies we reviewed.

However, some followup is being done. In fiscal year 1978, HUD auditors plan to audit the timeliness and effectiveness of resolving audit findings. They plan to routinely follow up on recommendations contained in reports issued in fiscal year 1977 and which were considered resolved based on a manager's intent to implement the recommendations. HEW audit agency's fiscal year 1978 plans call for nearly 800 followup reviews to determine whether corrective actions were taken on previously reported findings.

Even when auditors disagree with managers on the settlement of audit issues, they do not always refer them to higher authority for arbitration. For example, managers at Commerce allowed \$148,000 in grantee claims which auditors questioned because of lost, incomplete, and inadequate grantee records. The managers reasoned that the costs must have been incurred because the grantee either partially met or attempted to meet a work schedule. Without raising questions to higher authority, the auditors accepted this rationale as the basis for closing the audit report.

## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

#### CONCLUSIONS

The lack of a good system is costing the Federal Government millions of dollars--most of which grantees and contractors are keeping although they are not entitled to these funds under applicable laws and regulations. From the long delays in resolving audit findings and the sizable number of cases in which valid findings have been resolved in the grantee or contractor's favor without adequate justification, it is apparent that the present system of resolving auditors' findings is not satisfactory. Also, sizable savings in operating costs are sometimes being foregone by failure to act promptly on findings involving internal agency operations.

Because the present system of resolving findings involving grantees and contractors--which involves letting the program administrator (contracting officer) settle the issue--has not proven effective, we believe a significant procedural change is needed. This change should remove final responsibility for deciding such issues from the program administrator, who, we believe, finds this task onerous, inconsistent with his primary duties, and thus of low priority. Auditors' other findings--those that affect internal operations--might be handled similarly.

This can be accomplished by controlling actions on audit findings more effectively and not letting program administrators have the final word on settlement of auditors' findings on grants and contracts. What is necessary is that auditors' findings should be sent to program administrators with the requirement that the administrators must either seek recovery of any overpayments within 6 months or issue a signed written statement as to why the auditors' findings should not be pursued. Such statements should be subject to legal review and written concurrence. If the administrator does not reach a decision within 6 months, the matter should be referred to a separate independent agency official who will pursue the matter for the Government. Such an arrangement would not only produce more recoveries but would encourage auditors to do more prompt and

complete work so that the amount questioned would be better supported than has been the case in some audits we reviewed. If the program administrator failed to make recoveries because of a lack of good audit work, the auditors would soon improve the quality of their work to provide the proper support and thus preserve their reputation.

### RECOMMENDATIONS

We recommend to each of the agencies having audit staffs that the following system for resolving audit findings be established:

1. Agency auditors be required to keep accurate records of all findings until a final disposition has been made--where recovery of funds is involved this means until the funds are recovered, the debt forgiven, or the finding determined to be in error.
2. Program administrators be given 6 months to reach decisions on what amount, if any, is due from contractors or grantees as the result of audit findings. Written decisions signed by the program administrator be required to justify not seeking collection of any amounts shown to be due by the auditors' report. Such decisions should also be reviewed for legality and endorsed by the legal official who performs the review.
3. An official independent of the program administrator and the auditor be given responsibility for deciding whether to make recoveries on findings not decided on within the 6-month time frame specified above. Any decisions not to recover should be justified by the official and reviewed for legality as previously mentioned. This official, who should be at a high level in the organization, could also handle resolution of audit findings not involving grantees or contractors that are not resolved within a 6-month period.
4. Such officials be required to issue quarterly reports to the agency head on the status of all findings which they are responsible for resolving, including the age and amounts of unresolved findings and results of findings they closed during the period.

5. To insure aggressive recovery efforts, accounting and collection controls should be established for any amounts due the Government as a result of audit findings.
6. If the agency decides against collection for any reason, then it should take action to resolve the underlying causes which resulted in the debt. These can include providing technical assistance to help grantees improve operation of the program or changing ambiguous or conflicting regulations which impede accomplishing program objectives.

We also recommend that the Director, OMB, make appropriate changes to its management circulars to establish the requirements we have recommended above.



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

OCT 19 1978

Honorable Elmer B. Staats  
Comptroller General of the United States  
General Accounting Office  
Washington, D. C. 20548

Dear Mr. Staats:

This is in response to the draft report, "More Effective Action is Needed on Auditors' Findings--Millions Can Be Collected or Saved."

The report shows that operating departments and agencies have a backlog of \$4.3 billion in unresolved audit findings, and that failure to act on these findings may be costing the Government hundreds of millions of dollars a year. The report says that

- Some officials are waiving recoveries without proper authority to do so
- Others delay decisions so long that recovery is precluded
- Agencies lack accounting controls over recovery actions.

We are deeply concerned about this problem, and have already moved, on the basis of your report, to bring about corrective action. On October 5, 1978, Director McIntyre wrote to the heads of departments and agencies, urging them to act at once. He called upon each of the agencies to launch an immediate review of their audit followup systems, and get their systems in line with the requirements of Circular A-73.

We plan to meet with the agencies to discuss additional steps that need to be taken to achieve effective followup on audit findings. We would appreciate the participation of your staff in those meetings. Our staff will be contacting yours on this.

Thank you for the opportunity to review the draft report.

Sincerely,

W. Bowman Cutter  
Executive Associate Director  
for Budget

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

October 5, 1973

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

SUBJECT: Audit followup

The General Accounting Office has just issued a draft report on audit followup. It says that operating departments and agencies have a backlog of \$4.3 billion in unresolved audit findings, and that failure to act on these findings may be costing the Government hundreds of millions of dollars a year. The report says that

- some officials are waiving recoveries without proper authority to do so
- others delay decisions so long that recovery is precluded
- agencies lack accounting controls over recovery actions.

This situation is intolerable, and corrective action must be taken at once. I urge you to launch an immediate review of your department or agency system of audit followup. Guidance on a proper followup system may be found in our Circular A-73, "Audit of Federal Operations and Programs."

In the meantime, I have asked my staff to meet with yours, and with the GAO, to discuss the details of the GAO findings, and their recommendations for corrective action. I would appreciate your naming someone within the next week to serve as your representative in this matter. Please provide us the name, address, and phone number of your representative so that we may begin scheduling the meetings.

  
James T. McIntyre, Jr.  
Director

MAGNITUDE OF OUTSTANDING AUDIT FINDINGS  
AMONG 34 FEDERAL DEPARTMENTS AND AGENCIES  
AS OF MARCH 31, 1977\*

<u>Department or agency</u>	<u>Number of Unresolved Audit Reports</u>	<u>Amount of questioned costs outstanding</u>
Department of Health, Education and Welfare (note b)	2,030	\$ 193,384,000
Department of Labor (note b)	2,028	165,405,000
Environmental Protection Agency (note b)	457	43,061,000
Department of Housing and Urban Development (note b)	2,680 (note f)	200,189,000
Department of Commerce (note b)	585	23,722,000
Defense Contract Audit Agency (note e)	3,354	1,525,335,000
Department of Interior	133	11,351,000
Department of Agriculture (note b)	736	103,445,000
Civil Service Commission (note b)	92	18,224,000
National Science Foundation	47	4,268,000
Action	115	1,125,000
Central Intelligence Agency	133	279,000

\*Although the amounts are primarily as of March 31, 1977, some agency totals may be as of other dates in fiscal year 1977. Also, we did not verify the accuracy of the above figures, which were compiled primarily by the individual agencies.

<u>Department or agency</u>	<u>Number of Unresolved Audit Reports</u>	<u>Amount of questioned costs outstanding</u>
Defense Audit Service	none	\$ none
Deputy Assistant Secretary of Defense (note a)	85	26,405,000
Department of the Air Force (notes b and d)	19	none
Department of the Army (note b)	none	none
Department of the Navy (note b)	37	none
Defense Logistics Agency (note b)	2	Not known
National Aeronautics and Space Administration (note b)	10	none
Small Business Administration	Not known	Not known
Department of Justice	5	1,000
Federal Bureau of Investigation (note a)	340	Not known
Law Enforcement Assistance Administration	9	25,169,000
Internal Audit Staff		none
Federal Communications Commission	47	none
Federal Deposit Insurance Corporation	298	78,456,000



<u>Department or agency</u>	<u>Number of Unresolved Audit Reports</u>	<u>Amount of questioned costs outstanding</u>
Department of Transportation		
Office of Audits	317	\$ none
Federal Aviation Administration (note a)	Not known	Not known
Federal Highway Administration	80	53,938,000
Urban Mass Transportation Agency	121	25,693,000
Department of the Treasury	487	49,971,000
Community Services Administration	617	30,292,000
Department of Energy		
Federal Energy Administration	1,177	1,762,000,000
Energy Research and Development Administration (notes b and c)	58	1,890,000
Nuclear Regulatory Commission	1	none
Veterans Administration	50	362,000
Department of State		
Foreign Service	16	181,000
Foreign Assistance Agency for International Development	9	none
	107	Not known
U.S. Information Agency (note b)	16	none
Federal Home Loan Bank Board (note a)	2	none

<u>Department or agency</u>	<u>Number of Unresolved Audit Reports</u>	<u>Amount of questioned costs outstanding</u>
Government of District of Columbia (note b)	none	\$ none
Smithsonian Institution	10	none
Totals	<u>16,305</u>	<u>\$4,344,146,000</u>

a/Agency does not track outstanding audit reports. This table includes four such agencies.

b/Agency excludes certain audit reports from its tracking system, such as reports issued by public accountants or State, local, and other Federal agencies. This table includes 15 such agencies.

c/The Energy Research and Development Administration did not provide statistics on an agencywide basis because it does not have a centralized tracking system. Statistics include only 1 of 10 field offices.

d/Department of Air Force statistics include headquarters tracked audit reports plus 3 of 87 Air Force installations. Audit reports issued at Air Force installations are normally tracked only at the installation level.

e/DCAA does contract audits for all defense and some civil agencies. DCAA statistics are overstated, therefore, to the extent some civil agencies are tracking DCAA reports on their contracts. DCAA's tracking system partially compensates for the lack of any tracking of external audits by the defense agencies.

f/Number of audit findings rather than number of audit reports

**HOW FEDERAL DEPARTMENTS AND AGENCIES  
ARE NOT COMPLYING WITH OMB AUDIT RESOLUTION POLICY**

Department or Agency	No or incomplete records of actions taken		Evidence of prematurely closing of audit organizations not tracked	Agency's Reports by other audit organizations not tracked	No policies for acting on audit recommendations	before corrective action is completed	No timeframes Respond- ing to finding	Acting on finding	Not sent to agency management	Do not show status of corrective actions
	Agency's Reports by other audit organizations not tracked	before corrective action is completed								
Department of Health, Education and Welfare	X	X						X		X
Department of Labor	X	X						X		X
Environmental Protection Agency	X	X						X		X
Department of Housing and Urban Development	X	X								X
Department of Commerce	X	X						X		X
Department of Interior		X						X		
Department of Agriculture	X	X							X	
Civil Service Commission	X	X						X		X
National Science Foundation	X							X		X
Action										X
Central Intelligence Agency										
Defense Audit Service										
Deputy Assistant Secretary of Defense	X									X

Inadequate data to conclude

<u>Department or agency</u>	<u>No or incomplete records of actions taken</u>			<u>Periodic reports</u>	
	<u>Agency's own audit reports not tracked</u>	<u>Reports by other audit organizations not tracked</u>	<u>Evidence of premature closing of audit reports before corrective action is completed</u>	<u>No timeframes Responding to finding</u>	<u>Do not show status of corrective actions</u>
Department of the Air Force	X	X	X	X	X
Department of the Army	X	X	X	X	X
Department of the Navy		X	X	X	X
Defense Logistics Agency		X			X
Defense Contract Audit Agency			X		X
National Aeronautics and Space Administration		X	X	X	X
Small Business Administration			X	X	X
Department of Justice Federal Bureau of Investigation	X	X	X	X	X
Law Enforcement Assistance Administration Internal Audit staff	X	X	X	X	X
Federal Communications Commission				X	X

No or incomplete records of actions taken

Department or agency	No policies for acting on audit recommendations	Agency's own audit reports not tracked	Reports by other audit organizations not tracked	Evidence of prematurely closing of audit reports before corrective action is completed	No timeframes		Periodic reports	
					Responding to finding	Acting on finding	Do not show status of corrective actions	Not sent to agency management
Federal Deposit Insurance Corporation	X				X	X		X
General Services Administration					X	X		
Department of Transportation		X		X	X	X	X	X
Office of Audits							X	
Federal Aviation Administration		X		X			X	
Federal Highway Administration					X	X	X	
Urban Mass Transportation Agency					X	X		X
Department of Treasury								
Community Services Administration				X				X
Department of Energy			X	X	X	X	X	X
Federal Energy Administration				X			X	X
Energy Research and Development Administration			X		X	X		X

Insufficient data to conclude

Department or agency	No or incomplete records of actions taken			Periodic reports		Do not show status of corrective actions	
	No policies for acting on audit recommendations	Agency's own audit reports not tracked	Reports by other audit organizations not tracked	Evidence of premature closing of audit reports before corrective action is completed	No timeframes Responding to finding		Acting on finding
Nuclear Regulatory Commission				X	X	X	
Veterans Administration	X						X
Department of State							X
Foreign Service					X	X	X
Foreign Assistance Agency for International Development					X	X	X
U.S. Information Agency			X				X
Federal Home Loan Board	X				X	X	
Government of District of Columbia				X			
Smithsonian Institution							

Note: This schedule is based on information supplied by the Federal departments and agencies. Detail review probably would reveal additional deficiencies not identified in this appendix.

**DECISION**

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

**FILE:** B-163922

**DATE:** February 10, 1978

**MATTER OF:** Emergency Employment Act of 1971 - Recovery of Grant Funds

- DIGEST:**
1. Department of Labor has no authority to allow payments in violation of Department regulations establishing 7-day unemployment rule, 29 C.F.R. § 55.1(q)(1) and 30-day related employment rule, 29 C.F.R. § 55.7(e). Claim is returned to Department of Labor for recalculation of amount due to the Government.
  2. Although a portion of disallowed grant costs was withheld from subsequent grant funds under section 12(e) of EEA, Pub. L. No. 92-54, 85 Stat. 154, claim is returned to the Department of Labor under 4 C.F.R. § 104.4 for completion of claims collection efforts, including possible setoff from other Government sources, as required by 4 C.F.R. § 102.3 under Claims Collection Act, 31 U.S.C. § 951, et seq. (1970).

This decision responds to a request by the Assistant Secretary of Labor for Administration and Management for this Office to review and determine any liability as well as to take appropriate action to recover, \$131,783.71 expended by the State of Rhode Island during fiscal year 1973 and 1974 in violation of program requirements of a Department of Labor grant issued under the Emergency Employment Act of 1971 (EEA), Pub. L. No. 92-54, 85 Stat. 146, superseded by the Comprehensive Employment and Training Act of 1973 (CETA), Pub. L. No. 93-203, 87 Stat. 850, 29 U.S.C. § 841 et seq.

The Assistant Secretary has provided us with the following statement of facts in this matter:

"The State of Rhode Island was funded as Program Agent under the Emergency Employment Act (PEP, P.L. 92-54, July 12, 1971, 42 USC 4871 et seq.) in the amount of approximately \$7,080,696 by three grants running from September 1, 1971, through November 30, 1972. By letter of December 19, 1973, to Governor Phillip W. Noel of Rhode Island, Acting Assistant Regional Director for Manpower (ARDM) for Region I, advised that due to violations of the Public Employment Program (PEP) by 36

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subagents, \$428,345.40 of program costs were disallowed and restitution was to be made by the State.

"The disallowed costs and demand upon the State were based upon a DOL audit dated May 4, 1973, and a joint Civil Service/Manpower review of Rhode Island PEP during 1973.

"Governor Noel responded with a letter dated December 26, 1973, to Secretary Peter J. Brennan. The Governor asked that restitution be waived, alleging among other things, that PEP requirements were not issued before hiring began under the program. This statement was inaccurate (see enclosed copy of Federal Register dated August 14, 1971), but the Department nevertheless, decided to reevaluate all disallowed costs which could be directly attributed to administrative uncertainties in the early stages of the program.

"The Governor was notified by letter of March 29, 1974, from Lawrence W. Rogers, Region I ARDM, of this reevaluation and the change in disallowed costs as a result thereof. The letter stated that all disallowed costs which occurred prior to May 31, 1972, the 'date by which subagents should have received the PEP Handbook,' were reexamined. These costs consisted mainly of violations of the administratively established 30-day rule and the 7-day rule, both of which were clarified by the PEP Handbook.

"The result of the reexamination was that \$177,336.12 in previously disallowed costs were 'no longer considered to be disallowed.' This left a balance of disallowed costs in the amount of \$251,009.28.

"The letter also stated that withholding of funds for disallowed costs was only available as a remedy during the fiscal year that the improper expenditures were made, or the next fiscal year, and that program funds, therefore, could not be withheld for violations which occurred in FY 1972. This opinion was based on the clear language of section 12(e) of P.L. 92-54 (EEA Act of 1971). Of the disallowed costs, \$31,648.42 clearly pertained to post-FY 72 violations and the State's



F R R A T A

To the recipients of the Comptroller General's report to the Congress entitled "More Effective Action Is Needed On Auditors' Findings--Millions Can Be Collected Or Saved" FGMSD-79-3.

Page 43 of the report should be page 44 and page 44 should be page 43. Page 45 should be page 48 and page 45 left blank.

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The Assistant Secretary for Administration and Management, concludes his letter by recommending that we take appropriate action to recover the \$131,783.71 in funds expended by the State of Rhode Island during fiscal years 1973 and 1974 in violation of the hiring regulations of the Emergency Employment Act of 1971.

### Improper Allowance of Grant Costs

This matter was submitted to us for collection action under the Federal Claims Collection Act of 1966, and it would be, of course, impossible for us to audit all the expenditures made under the PEP Program in Rhode Island. However, in reviewing the record, we notice that the Department of Labor originally disallowed over \$98,000 because of violations of the 7-day and 30-day regulations. Subsequently, the Department allowed those expenditures. For the reasons discussed below, we believe that the Department of Labor's original determination was correct and that the amount due the United States from Rhode Island should be increased by the subject amount.

The 7-day and 30-day rules, which are part of the EEA regulations, provide as follows:

(1) "Unemployed Persons' means \* \* \* An individual shall be deemed to meet this qualification if he has been without work for 1 week or longer \* \* \* 29 C.F.R. § 55.1(q)(1) (August 14, 1971, superseded March 3, 1972). The substitute provision did not change the substance of the rule; one week was changed to seven days.

(2) "Participants whose most recent employment was with the Program Agent or any employing agency receiving financial assistance through the Program Agent must have been unemployed for 30 days or longer prior to being employed pursuant to the Act." 29 C.F.R. § 55.7(e) (August 14, 1971).

One Week Violations - In his letter of March 29, 1974 (Enclosure 2 of the Assistant Secretary's letter), to the Governor of Rhode Island explaining that he was allowing previously disallowed expenditures, the Assistant Regional Director for Manpower said some confusion had existed in the early stages of the program with respect to the one week or 7-day rule because of the separation in the regulations of the definition of "unemployment" from another provision that gives priority in the selection process to the unemployed over the underemployed (29 C.F.R. § 55.7(b) of the August 14, 1971 regulations). But, he added, " \* \* \* the net effect of pairing

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letter of credit was appropriately reduced. This left a balance of disallowed costs in the amount of \$219,350.86.

"Mr. Rogers requested a meeting with the Governor's staff to obtain complete expenditure totals for persons hired in violation of the law and/or regulations in FY 1972 and continued in the program as a violation in the FY 73-74 period. The meeting was held on April 10, 1974, and T. C. Komarek, Acting ARDM for Region I, advised Governor Noel in a letter dated April 18 that additional amounts could and would be withheld from the State's letter of credit.

"To date, the Department has withheld a total of \$157,341.20 for violations occurring in FY 1973 and 1974 (this figure includes the \$31,728.42 mentioned in the March 29 letter to Governor Noel). This left \$93,634.08 in disallowed costs, all of which pertained to portions of hiring violations occurring in FY 1972.

"Komarek again reminded the Governor that although the Department was unable to withhold present program funds for this amount, the Governor, as program agent, had an obligation to restore them. In a letter to Noel dated September 16, 1975, Luis Sepulvada, Acting ARDM for Region I, noted that the Governor had not responded to the matter of restitution of disallowed costs since Roger's letter of March 29, 1974. Mr. Sepulvada urged the Governor to act promptly on the matter so that restored funds could be used to provide further assistance to the unemployed of Rhode Island instead of reverting to Treasury. The deadline for this was June 30, 1976, and it was not met.

"As of this date, \$131,783.71 are costs that have not been reimbursed (October 5, 1976, letter Sepulvada to Angebrannt).

"This letter uses the correct term of disallowed costs. In some of the supporting correspondence the term questioned costs was inaccurately used to describe costs which had been actually disallowed."

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"\* \* \* The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act."

Withholding further grant assistance under the same program in which the violations occurred and setting off the debt against moneys owed to the debtor by any agency of the Federal Government are entirely different remedies. Since the former is available only to recover amounts expended in the current or prior fiscal year, the Department of Labor had a responsibility to seek offset from other sources for the remaining liability for which withholding was not available. This it does not appear to have done.

Inasmuch as we believe that the amount due the United States by Rhode Island should be recalculated and since the Department of Labor has not taken complete claims collections action in accordance with 4 C.F.R. Part 102, as required under 4 C.F.R. § 105.1, we are returning this matter to the Department of Labor for prompt completion of its claims collection responsibilities. In order that statute of limitations questions may be avoided, we suggest that this matter be referred directly to the Department of Justice for possible compromise, termination, or judicial action if further collection efforts are unsuccessful.

  
Deputy Comptroller General  
of the United States

these two separate items is an implicit statement of the 7-day rule \* \* \*." The confusion, he said, was cleared up by the issuance of a Handbook covering the question.

There are at least nine cases that were allowed under this action involving persons who had been without employment between one and six days. In one case a recipient who had been working on Saturday was hired under the program on Monday. The questioned costs varied from \$177 to \$14,635 per case; the cases totalled \$83,281.85.

The 30-day rule violations - In two cases involving violations of 29 C.F.R. § 55.7(e), the Assistant Regional Director justified his action by noting that while the regulations in existence when they occurred were clear, "In acting (with good intention) on \* \* \* advice [from the grantee Program Agent], the subagent should not be penalized." The amounts allowed by this action were \$2,677.79 in one case and \$12,608 in the other; the total amount allowed was \$15,285.79.

In none of these particular cases does the Assistant Regional Director, in allowing the questioned costs, assert that the individuals somehow fall within the eligibility standards of the regulations. In the case of the 7-day rule violations, he asserts that subagents can be excused from applying a definition in a regulation because its location is not proximate to a particular use of the defined term. This justification is not based on any ambiguity in language, but on the complexity of the regulation. (We note that there is no evidence that the participants in question were eligible as underemployed individuals.) In the case of the 30-day rule violations, he excuses the violations because they occurred in good faith and under bad advice. Yet, as the Department explained in an earlier letter of December 19, 1973, to Governor Noel (enclosure 2):

"Forgiving of unauthorized payments, as has been suggested by at least one cited subagent, is not legally feasible, based upon the ruling of the Solicitor of the Department of Labor transmitted October 10, 1973, which says in part 'Forgiving of unauthorized payments: The Federal Government lacks the authority to forgive payments made by a grantee in violation of PEP regulations, no matter how well intentioned the grantee may have been in making such payments. When the Congress enacts a statute authorizing the expenditure of appropriated funds for specific purposes, the conditions in that statute become binding on the Government employees whose job it is to administer the law.'"

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This statement is sound and we are unable to find any basis in the letter of March 29 allowing these costs (enclosure 5) to justify the Department of Labor abandoning this position.

The published regulations of the Department of Labor under section 12(a) of EEA, Pub. L. No. 92-54, 85 Stat. 153 had the force and effect of law until modified by further regulations. 40 Comp. Gen. 473 (1961), 31 Comp. Gen. 193 (1951) and the decisions cited therein. In the absence of explicit authority to do so, regulations cannot be waived by the Department of Labor, 37 Comp. Gen. 820 (1959). When faced with the need to interpret regulations, we give great weight to an agency's interpretation of its own regulations (see 55 Comp. Gen. 427 (1975) and case cited at 429), but here we are not faced with a conflict over interpretation. As previously noted, the officer who allowed the expenditures acknowledged that the expenditures did not meet the requirements of the regulations.

Even though, in the course of its claims collection activities, this Office does not, for practical reasons, make complete independent audits of debts referred to us for collection, when an obvious legal error, whether in favor of the Government or not, comes to our attention, it is our duty to have the agency involved make an appropriate adjustment in the amount due. Accordingly, we believe the debt owed by Rhode Island should be increased by the over \$98,000 involved in the 7-day and the 30-day violations that the Department has already determined occurred.

#### Department of Labor Claims Collection Efforts

All agencies are required to take "aggressive action" to collect amounts due under claims resulting from activities of the agency concerned pursuant to the Claims Collection Act, 31 U.S.C. § 951 et seq. (1970), and implementing regulations, 4 C.F.R. § 102.1 et seq., before submitting the claim to the General Accounting Office or to the Department of Justice for further collection action. While it appears that the agency has satisfied the requirement to make written demand for payment, there are other possible administrative steps, set forth in part 102 of the regulations, supra, which were either omitted or which were not reported to this Office in accordance with section 105.4 of the regulations. One important omission was the failure to attempt collection action by offset.

The Department of Labor did not satisfy its claim collection responsibilities by the limited withholding action taken under authority of section 12(e) of the EEA, which provides in part: