



Memorandum

Date FEB 6 1992
From *R. P. Kusserow*
Richard P. Kusserow
Inspector General

Subject Clarification Needed on What Constitutes an Advisory and Assistance Services Contract (A-I 4-91-02056)

To Kevin E. Moley
Assistant Secretary
for Management and Budget

Attached is a final report for your comment on the results of our review of contracted advisory and assistance services (AAS) as required by Section 1114(b) of Title 31 of the United States Code. That law directs that the Inspector General submit to the Congress each year an evaluation of the progress of the Department in improving the accuracy and completeness of the information on AAS provided to the Federal Procurement Data System (FPDS) and establishing effective management controls over contracted AAS. This year, we concentrated our review principally on the Health Care Financing Administration (HCFA), a major operating component of the Department. However, we also included some issues of departmentwide concern in our review. We have and will continue to focus attention each year on different components within the Department.

The lack of a clear definition of what constitutes an AAS obligation continues to cause the operational components to apply their own interpretation of the Executive Office of Management and Budget (EOMB) Circular A-120 criteria. As a result, in our opinion, HCFA did not report at least \$2.3 million in AAS acquisitions to the Department and the FPDS. The inaccuracies in AAS reporting were due mainly to the absence of a precise Governmentwide definition of what constitutes AAS and HCFA's application of this definition.

In August 1991, the EOMB proposed a policy to improve contracting oversight and management controls by focusing on identifying the types of situations most subject to abuse, rather than capturing information on the number of contracts covered by Circular A-120. This proposed policy sets out a series of questions as guidelines for agencies to use to prevent abuse

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in nonpersonal services contracting.¹ If implemented, this will supersede Circular A-120 (**AAS** requirements) except for services obtained by personnel appointments and advisory committees.

However, until Circular A-120 is revised or superseded, we believe that the Department should take a more comprehensive approach in managing, controlling and strengthening accountability over its **AAS** activities. We are, therefore, recommending that the Department provide clarification and guidance to the operating components so that the Circular A-120 definition can be consistently applied for all contracts that are of a nonpersonal services nature.

Please advise us, within 60 days, on actions taken or planned on our recommendations. If you have any questions, please call me or have your staff contact George M. Reeb, Assistant Inspector General for Health Care Financing Audits, at FTS 646-7104. Copies of this report are being sent to other interested top Department officials.

Attachment

¹A 'nonpersonal **services** contract' is a contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**CLARIFICATION NEEDED ON WHAT
CONSTITUTES AN ADVISORY AND
ASSISTANCE SERVICES CONTRACT**



**Richard P. Kusserow
INSPECTOR GENERAL**

A-14-91-02056



Memorandum

Date FEB 6 1992
From Richard P. Kusserow
Inspector General

Subject Clarification Needed on What Constitutes an Advisory and Assistance
Services Contract (A-I 4-91-02056)

To Kevin E. Moley
Assistant Secretary
for Management and Budget

This final report presents the results of our review of contracted advisory and assistance services (AAS) as required by Section 1114(b) of Title 31 of the United States Code. That law directs that the Inspector General submit to the Congress each year an evaluation of the progress of the Department in improving the accuracy and completeness of the information on AAS provided to the Federal Procurement Data System (FPDS) and establishing effective management controls over contracted AAS. This year, we concentrated our review principally on the Health Care Financing Administration (HCFA), a major operating component of the Department. However, we also included some issues of departmentwide concern in our review. We have and will continue to focus attention each year on different components within the Department.

The lack of a clear definition of what constitutes an AAS obligation continues to cause the operational components to apply their own interpretation of the Executive Office of Management and Budget (EOMB) Circular A-120 criteria. As a result, HCFA did not report at least \$2.3 million in AAS acquisitions to the Department and the FPDS. The inaccuracies in AAS reporting were due mainly to the absence of a precise Governmentwide definition of what constitutes AAS, and HCFA's application of this definition.

**THE DEPARTMENT NEEDS TO CLARIFY
EOMB'S CIRCULAR A-120 DEFINITION OF
WHAT CONSTITUTES AN AAS CONTRACT**

In August 1991, the EOMB proposed to the executive agencies and Departments a policy to improve contracting oversight and management controls by focusing on identifying the types of situations most subject to abuse, rather than capturing information on the number of contracts covered by Circular A-120. This proposed policy sets out a series of questions as guidelines for agencies to use to prevent abuse in nonpersonal services contracting.' If implemented, this will supersede Circular A-120 (AAS requirements) except for services obtained by personnel appointments and advisory committees.

However, until Circular A-120 is revised or superseded, we recommend that the Department provide clarification and guidance to the operating components so that the Circular A-120 definition could be consistently applied for all contracts that are of a nonpersonal services nature.

In December 1991, the EOMB published in the Federal Register for public comment the proposed policy and notice of intentions to rescind Circular A-120 guidelines on the use of AAS. In response to our draft report, the Office of the Assistant Secretary for Management and Budget (ASMB) advised us of the status of the proposed policy and agreed that the lack of a clear definition of what constitutes an AAS obligation has been a Governmentwide problem for years and attempts at arriving at a clear definition proved unsuccessful. The ASMB stated that it has already prepared more precise guidance for the operating components than Circular A-120 by specifying the Purpose Codes (FPDS Product and Service Codes) which they believe apply to AAS. And, the ASMB disagreed in part with our determination that certain acquisitions for training and management and support of research should be reported as AAS obligations.

Notwithstanding the correct classification of these acquisitions, the confusion and uncertainty in defining AAS activities demonstrate the varying interpretations of Circular A-120 criteria and the need for close monitoring of AAS. Although Circular A-120 may be superseded by proposed EOMB policy changes, we believe that until Circular A-120 is superseded, the

'A 'nonpersonal services contract' is a contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

Department should continue to strengthen accountability over its AAS activities. We further emphasize that until new policy is implemented, the Department and the Office of Inspector General (OIG) are required, by law, to adhere to the rules and regulations governing AAS.

BACKGROUND

Section 1114(b) of Title 31 of the United States Code, requires that the Inspectors General

submit to the Congress each year an evaluation of the progress of the Departments in improving the accuracy and completeness of the information on AAS provided to the FPDS. We focused our review on the management of AAS in HCFA, a major operating component of the Department, during Fiscal Year (FY) 1990 and the first three quarters of FY 1991.

The AAS, informally known as consulting services, is governed by EOMB Circular A-120. That Circular defined AAS as:

"...those services acquired from non-governmental sources by contract² or by personnel appointment to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance.*

Among other things, agencies may use AAS as a legitimate way to:

- 0 enhance the understanding of, and develop alternative solutions to, complex issues;
- 0 obtain advice regarding the latest developments in research;
- 0 obtain the opinions, special knowledge, or skills of recognized experts whose prestige can contribute to the success of important projects; and
- 0 support and improve the operation of organizations.

²AAS can also be obtained through purchase orders.

The AAS is not intended to be used to:

- o perform work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials;
- o bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;
- o preferentially make awards to former Government employees; or
- o obtain professional or technical advice which is readily available within a Federal agency.

Circular A-120 established specific controls over the use of AAS. For instance, the Circular states that each agency must maintain an accounting or information system for monitoring and reporting AAS activities. It also directs that all AAS arrangements be approved, in writing, at a level above the organization sponsoring the activity; approval must be at least two levels above the sponsoring organization if sought during the fourth fiscal quarter. In addition, it requires that contract actions above \$25,000 be covered by the reporting requirement.

Within the Department, AAS contracts are generally governed by EOMB Circular A-120, the Federal Acquisition Regulations, Health and Human Services Acquisition Regulations and Chapter 8-15 of the Department's General Administration Manual (GAM). Policies governing AAS contracts are developed by ASMB. Departmental operating and staff division heads have overall responsibility for the approval, management and control of AAS projects. The AAS contracts are administered by the various acquisition and contracting division offices throughout the Department.

The Department tracks information on AAS contracts through its automated Departmental Contract Information System (DCIS). This system, administered by ASMB, includes data on all contracts awarded with appropriated funds and executed by the Department to obtain supplies, services and construction sources outside the Federal Government.

The Department reported to EOMB as part of its FY 1991 budget request that it obligated approximately \$36.9 million on AAS contracts during FY 1990. The Department did not report obligations on AAS contracts during FY 1991 as the Congress did not impose spending limitations. The HCFA, however, reported to the Department obligations of \$5.9 million for FY 1990 and \$2.3 million for three quarters of FY 1991.

<u>AAS CONTRACT OBLIGATIONS</u>		
<u>(in millions)</u>		
	<u>FY 1990</u>	<u>FY 1991</u>
	<u>CONTRACT OBLIGATIONS</u>	<u>CONTRACT OBLIGATIONS</u>
Department	\$36.9	\$17.0 (1)
HCFA	\$ 5.9	\$ 2.3 (1)

(1) represents three quarters of FY 1991

During the past several years, the OIG issued a series of reports on contracted AAS. These reports identified several areas where the Department needed improvement and emphasized the need for management controls over AAS contracts. The reports also identified inaccurate and incomplete data being reported to the FPDS as well as problems related to abuses in the competitive process and missing or poorly prepared justifications for awards on AAS contracts.

SCOPE

The objectives of our review were to assess the adequacy of selected management controls governing contracted AAS and HCFA's accuracy of reporting AAS contracts to the Department, FPDS and the Congress. We did not review all possible management controls. Rather, we chose to review those management controls that were immediately related to: directives included in Section 1114(b) of Title 31 of the United States Code; concerns raised by the

Congress; and problems and indications of possible problems identified during previous reviews of AAS. Specifically, we sought to determine:

- o the accuracy and completeness of AAS information tracked by HCFA; and
- o the accuracy and completeness of AAS information on HCFA contracts reported to DCIS, FPDS and the Congress.

This review was performed in accordance with generally accepted Government auditing standards. Audit work was performed between April and July 1991, predominantly at HCFA Headquarters in Baltimore, Maryland and departmental offices in Washington, D.C.

In performing this review, we:

- o identified and analyzed relevant Governmentwide, departmental and HCFA guidance that governed AAS contracts during FY 1990 and three quarters of FY 1991;
- o identified, reviewed and analyzed previous reports addressing the management of AAS in the Department and to a lesser extent, the overall Government;
- o consulted with other offices and agencies that have previously evaluated AAS;
- o identified and evaluated HCFA and departmental systems used to monitor AAS obligations and expenditures and ensure compliance with spending limitations; and
- o compared AAS data included in DCIS during FY 1990 and three quarters of FY 1991 to the information on the HCFA system to assess the accuracy and completeness of the information.

During our fieldwork, HCFA had 19 contracts active (awarded or modified) covering the period October 1, 1989 through March 31, 1991 that were identified as AAS. We reviewed the 19 contracts to determine compliance

with the selected AAS management controls. Regional AAS contracts were not reviewed. We also selected 15 non-AAS contracts awarded or modified during October 1, 1989 through March 31, 1991 for review to determine if they were properly classified.

Our review also included an analysis of purchase orders to determine if the statements of work could be considered AAS and to determine if HCFA was circumventing Circular A-120 reporting requirements by issuing numerous purchase orders to the same vendor rather than issuing a contract.

In conducting this review of contracted AAS, we assessed the adequacy of selected internal controls used by management to ensure that AAS contracts are awarded and managed in compliance with prevailing laws, regulations and other departmental and agency guidance.

RESULTS OF REVIEW

Our review of 19 active AAS contracts showed that HCFA generally reported and classified its AAS acquisitions in accordance with Circular A-120. The AAS acquisitions, for the most part, were annotated correctly on DCIS and we noted only minor discrepancies in updating existing contracts to DCIS. We also did not find HCFA circumventing any Circular A-120 reporting requirements by issuing multiple purchase orders to the same vendor rather than issuing an AAS contract.

However, as a result of the lack of a clear EOMB definition of what constitutes AAS acquisitions and the Department's lack of guidance to the operating components that would help clarify the Circular A-120's definition, we are concerned that HCFA may not have reported all of its AAS acquisitions to the Department and the FPDS. Based on OIG's interpretation of the Circular's definition of AAS, we have agreed that the 19 contracts classified as AAS were classified correctly. However, our review of the 15 contracts classified as non-AAS led us to conclude that 6 of those contracts should indeed have been considered AAS.

We believe that this disagreement between the OIG auditors and HCFA personnel itself supports a concern of the lack of clarity in the definition of AAS. Moreover, we have found the Circular's criteria to be extremely

abstract and not especially useful when applied to particular program activities; also, the thirteen particular exclusions in the Circular's appendix are themselves subject to competing interpretations.

Rather than debate the interpretation of each criterion that led to the difference in our results, we believe that the Department should issue more specific guidance on particular activities which should be classified as AAS. More detailed criteria would both improve reporting accuracy and would save time in determining how to classify contracts.

THE DEPARTMENT NEEDS TO PROVIDE GUIDANCE TO THE OPERATING COMPONENTS ON WHAT CONSTITUTES ADVISORY AND ASSISTANCE SERVICE OBLIGATIONS

The lack of a clear definition of what constitutes an AAS obligation continues to cause the Department's operating components to apply their own interpretation of Circular A-120 criteria. As a result, HCFA did not report at least \$2.3 million as AAS acquisitions to the Department and FPDS. The inaccuracies in the reporting were due mainly to the absence of a precise Governmentwide definition of what constitutes AAS and HCFA's application of this definition.

We selected 15 contracts that were classified as non-AAS contracts and found 6 contracts that we believe should have been reported as AAS acquisitions under Circular A-120. The inaccurate reporting appeared to result largely from the absence of precise EOMB criteria of what constituted AAS and the lack of departmental guidance. Previous reviews of AAS Governmentwide and in the Department emphasized that the Circular A-120 definition was subject to various interpretations. The major concerns were the lack of narrative descriptions and the fact that the definition was too broad and complex. The lack of narrative descriptions and vague definition contributed to varying interpretations and coding decisions by HCFA.

The reluctance of the Department to take the initiative resulted in the operating components having to interpret on their own how Circular A-120 applies, thereby creating inconsistency and confusion. The Department's GAM merely incorporates Circular A-120 as an attachment and does not provide the necessary guidance to implement Circular A-120. This year, as in past years, despite repeated OIG recommendations, the Department still has not taken

**VARYING INTERPRETATIONS OF
CIRCULAR A-120 CONTINUE TO
EXIST AT THE OPERATING
COMPONENTS**

the initiative to improve its administration of contracted **AAS** activities. This, in part, was attributable to the anticipation of forthcoming EOMB guidance, a decrease in the use of **AAS** awards and the fact that, for FY 1991, the Department no longer had to report **AAS** obligations to the Congress.

Examples of this confusion and varying applications of **AAS** criteria are evident in HCFA's classification of contracts as **non-AAS** acquisitions. Our review showed that, for the six unreported **AAS** acquisitions, HCFA did not have adequate explanations or clearance documentation to support its **non-AAS** determination.

For example, one contract was coded as **non-AAS** based on the Division of Procurement Services Director's determination that the effort was "research". Research is an exclusion under Circular A-120. However, there was no explanation noted in the contract file to support this determination. The contract was awarded to conduct a nationwide analysis of variations in utilization rates and practice patterns that focused on hospital market areas. This information was to be provided to peer review organizations. In our opinion, upon reviewing the statement of work, the contract should have been classified as **AAS**- Studies, Analysis and Evaluations. Circular A-120 defined studies, analysis and evaluations as organized, analytic assessments that result in formal, structured documents containing data or leading to conclusions and/or recommendations. We believe that this contract met this criteria. On the other hand, Circular A-120 considered research as an analysis on theoretical mathematics and basic medical, biological, physical, social, psychological or other phenomena.

In another contract, HCFA coded auditing services as **non-AAS**. The HCFA based its determination on a January 1990 update to GAM policy that stated that contracting for auditing services was exempt from Circular A-120 reporting requirements. The changes to the GAM were based on proposed revisions to Circular A-120 that were never implemented. However, the proposed revisions only applied to contracts for financial auditing services performed by the OIG and those were the only auditing services excluded from the purview of Circular A-120. Contracts for other types of auditing services (program reviews, etc.), either procured for the OIG or other agencies, were to be considered **AAS** activities.

The following table summarizes the six non-AAS contracts that we believe should have been classified as AAS acquisitions.

<u>UNREPORTED AAS CONTRACTS</u>			
VENDOR/CONTRACT NO.	STATEMENT OF WORK	HCFA's DETERMINATION	OIG's DETERMINATION
Software Education Corp. Contract No. 500-87-0017	ADP Training	Non-AAS	Management Support (Training)
American Medical Contract No. 500-88-0004	Analyze Hospital Care Utilization	Non-AAS (Research)	Studies, Analysis and Evaluation (Study)
American PWA Contract No. 500-89-0020	Update MIAP Resource Directory	Non-AAS (Research)	Management Support (Data Collection)
Bland, Datesman & Assoc. Contract No. 500-90-0030	Audit of Health Plan	Non-AAS (Audit Services)	Management Support (Audit Services)
University of Minnesota Contract No. 500-90-0046	Design Studies	Non-AAS (Research and Development)	Management Support (Research and Development)
JIL System, Inc. Contract No. 500-90-0058	Develop Manual & Training Material	Non-AAS (Education & Training)	Management Support (Training)

Recognizing the need for better controls, HCFA's Office of Acquisitions and Grants implemented new AAS clearance procedures in October 1990. Specifically, they addressed AAS clearance documentation requirements that required the contract specialist to include a detailed memorandum to the contract file explaining why the acquisition was exempt from the AAS clearance process. Also, in the summary of negotiations, it must be explained in full detail whether or not the AAS clearance is applicable to the procurement. However, our review found no evidence that these clearance

procedures were used for any of our sampled FY 1991 procurements that were coded as non-AAS.

In August 1991, the EOMB proposed policy to improve contracting oversight and management controls by focusing on identifying the types of situations most subject to abuse, rather than capturing information on the number of contracts covered by Circular A-120. The policy set out a series of questions as guidelines for agencies to use to prevent abuse in nonpersonal services contracting. The questions focused on five areas most susceptible to abuse: governmental functions, cost-effectiveness, control, conflicts of interest and competition. The proposed policy, if implemented, would supersede Circular A-120 requirements except for those services obtained by personnel appointments and advisory committees.

in September 1991, in response to the EOMB proposed policy, the Department favored the cancellation of Circular A-120 because the definition of AAS contracts had not been resolved. The Department officials warned, however, that the proposed policy would add to the bureaucracy, while they faced downsizing and budget restraints. The Department also felt that the proposed policy would be counter productive in their attempts to streamline the procurement process.

CONCLUSIONS AND RECOMMENDATIONS

The lack of a clear definition of AAS acquisitions continues to

cause operating components to apply varying interpretations of Circular A-120 criteria. Although Circular A-120 may be superseded by proposed EOMB policy changes that are currently in the draft stages, we are still required by law to submit to the Congress an evaluation of the Department's progress in improving the accuracy and completeness of AAS acquisitions. As a result, until Circular A-120 is either revised or superseded, we believe that the Department should take a more comprehensive approach in managing, controlling and strengthening accountability over its AAS activities.

We, therefore, recommend that the Department update GAM to provide clarification and guidance to the operating components so that the

Circular A-120 definition can be consistently applied for all contracts that are of a nonpersonal services nature.

ASMB COMMENTS AND OIG RESPONSE

The ASMB agreed that the lack of a clear definition of what constitutes an AAS obligation has been a Governmentwide problem for years and that attempts to arrive at a clear definition have proven unsuccessful. The ASMB stated that in addition to Circular A-120, they have prepared more precise guidance for the operating components by specifying the Purpose Codes (FPDS Product and Service Codes) which they believe apply to AAS.

We agree that the Purpose Codes provided by ASMB may assist in the classifying of AAS obligations, but this alone does not supply the level of assurance that is needed for the operating components to clearly define AAS activities. The Purpose Code listing provides the coding for AAS type acquisitions; it does not guide agencies in their determinations of which contracts to classify as AAS.

The ASMB disagreed in part with our determination that additional HCFA acquisitions should be reported as AAS obligations. The acquisitions involved training and research activities which were eliminated from AAS requirements by specific exemptions in Circular A-120. Despite these exemptions, a great amount of confusion and uncertainty still exists in categorizing what constitutes exempt acquisitions--training for normal operations and research--from non-exempt, i.e., management and support of training and research. The ASMB, itself, acknowledged that there is a fine line between what constitutes management and support and what constitutes research.

Notwithstanding the correct classification of these acquisitions, the confusion and uncertainty in defining these activities demonstrate the varying interpretations of Circular A-120 criteria and the need for close monitoring of AAS activities. Until Circular A-120 is superseded, we believe the Department should provide clarification and guidance to the operating components so that the Circular A-120 definitions can be consistently applied. We further emphasize that until Circular A-120 is superseded the Department and the OIG are required, by law, to adhere to the existing rules and regulations governing AAS.

APPENDICES

**Memorandum**

Date: 8/18/91

From: Assistant Secretary
for Management and Budget

Subject: Clarification Needed on What Constitutes an Advisory and
Assistance Services Contract (A-14-91-02056)

To: Richard P. Kusserow
Inspector General

Reference is made to your draft report on the results of the Office of Inspector General (OIG) audit of contracted advisory and assistance services (**AAS**) in the Health Care Financing Administration (HCFA). Our comments on the report follow.

First, the lack of a clear definition of what constitutes an **AAS** obligation has been a Government-wide problem for years. Recently, the Office of Federal Procurement Policy (OFPP), together with the General Accounting Office, conducted a study of six Federal agencies specifically attempting to arrive at a clear definition of **AAS**. They were unable to do so. As a result, OFPP issued a draft policy letter to the agencies which planned to eliminate Office of Management and Budget (OMB) Circular No. A-120, on **AAS**. Discussions with OFPP personnel last week indicated that OFPP will publish the policy letter which eliminates A-120 within the next two weeks.

Since A-120 will be eliminated, we understand that OMB also intends to seek changes in Section 1114(b) of Title 31 of the United States Code which requires the Inspectors General to review **AAS** on a yearly basis.

Notwithstanding the probable future elimination of **AAS**, we believe we have already prepared adequate guidance for the **OPDIVs** to comply with the A-120 definition. General Administration Manual (GAM) 8-15, the Department's implementation of A-120, includes a more precise definition of **AAS** than does A-120. We decided to specify the Purpose Codes (FPDS Product and Service Codes) which apply to **AAS**. We instructed the Department's contracting offices that only those FPDS codes included in Exhibit 8-15-B of **GAM** 8-15 are **AAS**.

Also, the six contracts mentioned on page 8 of the OIG report, which the OIG considers to be **AAS**, will be addressed in detail below. We do not consider five of the contracts to be **AAS** due to specific exemptions in A-120. Two of the contracts are for training. A-120 specifically excludes "training which maintains skills necessary for normal operations". We analyzed some of the Department's training and the need for

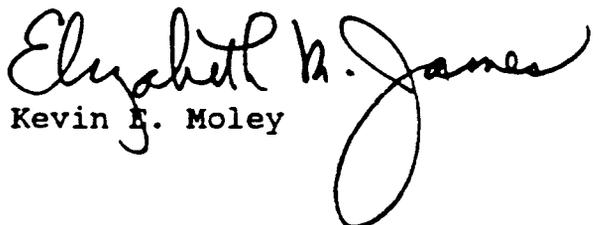
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employees to be continually trained in an increasingly complex work environment to maintain their skills. All training should improve skills; however, to maintain normal operations, additional knowledge will always be necessary. What is normal today will be changed tomorrow. We decided that virtually all training would be exempt from the definition; therefore, we did not include the category of training as one of the **AAS** codes in Exhibit 8-15-B. We also eliminated training in our attempts to clarify a fuzzy definition. Therefore, HCFA correctly excluded those contracts from **AAS**.

Three of the **other** contracts were excluded from **AAS** on the basis of research. A-120 exempts "Research on theoretical mathematics and basic medical, biological, physical, social, psychological **or** other phenomena" from the definition of **AAS**. Therefore, we did not include research in the codes in Exhibit 8-15-B. In addition, based on a further inquiry by HCFA, we provided HCFA an April 4, 1991 memorandum regarding research (see attached). This is an example of our continual attempts to clarify the definition, and an attempt by HCFA to be as precise as they can in defining **AAS** projects. However, as can be seen in the memorandum, it is not always easy to do.

The final contract was for audit services. We originally included audit services in Exhibit 8-15-B. However, when it appeared that OFPP would be specifically eliminating audit services from the definition in January, 1990, we removed it from the FPDS codes when we were making other changes. Part of the reason that OFPP attempted to remove audit services from A-120 was that the President's Council on Integrity and Efficiency (**PCIE**), the Inspectors General of all Government -agencies, -specifically requested that audit services be **exempted** since the PCIE did not consider them to be **AAS**. Subsequently, OFPP did not change the definition. We will revise the definition to include audit services as **AAS** in the future.

Finally, we provided OFPP with a copy of our **GAM** 8-15. They are aware of our determinations. In an OFPP study of agencies' implementation of A-120 in August, 1989, we **specifically** addressed our treatment of training and research. OFPP did not raise any objections to our determinations.

For 
Kevin E. Moley

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Memorandum

Date APR - 4 1991

From Director, Division of Acquisition Policy

Subject Exemption from Advisory and Assistance Services **for** Research Contracts

TO Glenda Moragne **El**, Deputy Director
Office **of Acquisition** and Grants

Reference is made to your April 4, 1991 memorandum which requested confirmation of the advice previously provided your office regarding research contracts. A6 stated previously, if certain Health Care Financing Administration **funds are designated as research funds by the Congress, the funds are** for social research and **are** therefore exempt from the definition of advisory and assistance services (A&AS) in the Office of Management and Budget Circular No. A-120.

However, General Administration Manual 8-15 does include "Other Research and Development Management and Support" as **A&AS**. Sometimes there is a fine line between what constitutes management and support and what constitute research: however, if the Congress intended **the program to be** a research project, the vast majority, if not all, of the funds would **be** exempt from coverage from A-120. Often it may **be** more difficult to distinguish between social research, and **management** and support **of** that social **research**, than it would **be** to distinguish between **other** kind of **research** and **its management and** support.

If you need help in specific determinations, **please** contact Norman Audi at 8-245-0326. **We hope** this memorandum will help clarify the determinations.


Niels L. Holtet