

**FEDERAL ELECTION COMMISSION
OFFICE OF INSPECTOR GENERAL**



**2010 Follow-up Audit of Procurement and Contract Management
June 2011
Audit Report No. OIG-10-02**



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June 6, 2011

Ms. Lynne A. McFarland
Inspector General
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Subject: 2010 Follow-up Audit Report of Procurement and Contract Management

Dear Ms. McFarland:

In accordance with the terms of the task order, Cherry Bekaert & Holland LLP conducted a follow-up audit of the findings and recommendations included in the *2008 Performance Audit of Procurement and Contract Management* for the purpose of determining the status of the corrective actions for the findings noted in these reports.

The methodology applied was a risk-based selection of various purchase instruments for the period September 2010 through May 2011. We interviewed key personnel, reviewed relevant documentation and specifically followed up on FEC's efforts to address the findings and recommendations contained in the 2008 report.

We conducted this follow-up audit in accordance with *Government Auditing Standards* and our findings, recommendations, and management's responses are contained herein. This report is intended to meet the purpose described above and should not be used for other purposes.

We appreciate the opportunity to have served the FEC Office of Inspector General.

Very truly yours,

John Montoro, Partner

**2010 FOLLOW-UP AUDIT OF
PROCUREMENT AND CONTRACT MANAGEMENT**

FEDERAL ELECTION COMMISSION

AUDIT REPORT NUMBER OIG-10-02

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Contents

EXECUTIVE SUMMARY	1
SUMMARY OF FINDINGS, RECOMMENDATIONS AND MANAGEMENT CONCURRENCE	3
BACKGROUND	7
OBJECTIVES, SCOPE AND METHODOLOGY	8
DETAILED FINDINGS AND RECOMMENDATIONS	10
<i>Finding 1: Procurement Directive Has Not Been Approved and Implemented (OIG 08-02 – Prior Recommendation 1a)</i>	10
<i>Finding 2: Pre-Award Administration Needs Improvement (OIG 08-02 – Prior Recommendation 1a)</i>	11
<i>Finding 3: Inadequate Monitoring of OCFO Internal Controls Over Procurement Activities (OIG 08-02 - Prior Recommendation 1b)</i>	18
<i>Finding 4: Lack of Human Capital Plan to Address Risks to Procurement Function (OIG 08-02- Prior Recommendation 1c)</i>	20
<i>Finding 5: Modification Actions Not Approved by CFO (OIG 08-02 - Prior Recommendation 2a)</i>	22
<i>Finding 6: COTR Training Requirements Were Not Monitored in a Timely Manner (OIG 08-02 - Prior Recommendation 3a)</i>	23
<i>Finding 7: Contract Monitoring Activity and Tools Were Not Effective (OIG 08-02 - Prior Recommendation 3a)</i>	25
<i>Finding 8: Procurement Office Provides Limited Formal Oversight of COTRs (OIG 08-02 - Prior Recommendation 3b)</i>	27
<i>Finding 9: Lack of Independent Validation for Contract Data Reported in FPDS (OIG 08-02 - Prior Recommendation 4a & b)</i>	28
<i>Finding 10: Lack of Guidance Related to Time and Materials and Labor-Hour Contracts (OIG 08-02 - Prior Recommendation 5a)</i>	31
<i>Finding 11: Contract Close-Out Procedures Are Not Compliant With the FAR (OIG 08-02 - Prior Recommendation 6a)</i>	32
<i>Finding 12: Lack of Adherence With Information Technology Management Reforms (OIG 08-02 - Prior Recommendation 7a)</i>	34
<i>Finding 13: Blanket Purchase Agreements Are Not Used in Accordance With FAR and OMB Guidance (OIG 08-02 – Prior Recommendation 8a)</i>	36
<i>Finding 14: Procedures to Ensure Contract Files Are Complete Need Improvement (OIG 08-02 – Prior Recommendation 9a)</i>	40
ATTACHMENT- PRIOR FINDING STATUS	43

**FOLLOW-UP AUDIT OF PROCUREMENT
AND CONTRACT MANAGEMENT**

FEDERAL ELECTION COMMISSION

EXECUTIVE SUMMARY

The Office of Inspector General (OIG) of the Federal Election Commission (FEC) contracted with Cherry, Bekaert & Holland, L.L.P. (CBH) to perform a follow-up audit of procurement and contract management policies and procedures used by the FEC and to determine whether the FEC is complying with the policies and procedures, and applicable federal acquisition laws and regulations. The previous audit was conducted by Regis & Associates, PC. and released in September 2009.

The previous audit included a review of approximately \$27.6 million of various types of procurement instruments (e.g. contracts, purchase orders, blanket purchase agreements, and one specified interagency agreement) awarded/executed by the Procurement and Contracting Office in fiscal years 2006 through 2008. The follow-up audit selected approximately \$9 million of various procurement instruments awarded/executed by the FEC from June 1, 2009 through September 30, 2010 for testing; the following table illustrates the total number and dollar values¹ of procurement instruments selected for testing, compared to the population available for testing.

Procurement Type	Items Sampled	Total Sample Dollar Values	Population Dollar Values
Blanket Purchase Agreement	4	\$ 1,192,143	\$ 3,448,223
Purchase Order	5	\$ 195,279	\$ 713,297
Delivery Order	7	\$ 5,540,691	\$ 10,119,799
Contracts	3	\$ 1,758,018	\$ 2,845,529
Interagency Agreement	1	\$ 250,000	\$ 1,339,381
Totals	20	\$ 8,936,131	\$ 18,466,229

The results of our follow-up audit testing show that the agency has made progress towards addressing the recommendations described in the prior audit report. Specifically, progress has been made towards addressing issues related to: accuracy of information reported in Federal Procurement Data System - Next Generation (FPDS-NG), procurement file storage and documentation of Central Contractor Registration (CCR) registration. However, the majority of the recommendations from the prior audit remain open. Twelve (12) of fifteen (15) previous recommendations are still open and a number of new recommendations have been added. The status of prior recommendations is summarized in the section titled Prior Findings Status, starting on page 43.

Based on our observations during this follow-up audit, we do not believe that the existing policies contain adequate guidance to ensure that procurement activities: are in compliance

¹ These values represent the obligations recorded in FEC financial systems as provided by agency staff. Cherry, Bekaert & Holland, LLP did not audit the values and did not perform additional procedures to determine whether the values were materially correct.

with applicable regulations and internal policies, are adequately documented in files, and are making the best use of agency funds designated for procurement. Consistent with the findings of the prior audit, the following areas need improvement: documentation of pre-award activities, evidence of approval for modifications, oversight of Contracting Officer's Technical Representative (COTR) contract monitoring, contract close-out compliance, IT management reforms, process guidance for using Blanket Purchase Agreements (BPA), and overall contract file administration. In addition, there is a lack of a human resource contingency plan to address the risk resulting from having one full time contracting officer in the agency.

We acknowledge that the current fiscal pressure on the agency makes it challenging for the Procurement Office to implement some of the corrective actions. We believe that it is important for the Procurement Office to have adequate resource capacity in order to ensure the effective and efficient management of procurement activities.

Our fourteen (14) findings and twenty-nine (29) recommendations are summarized in the section titled Summary of Findings, Recommendations and Management Concurrence, starting on page 3.

SUMMARY OF FINDINGS, RECOMMENDATIONS AND MANAGEMENT CONCURRENCE

Findings	Recommendations	Management Concurrence
<p>1. Procurement Directive Has Not Been Approved and Implemented (Repeat finding)</p>	<p>We recommend that the OCFO:</p> <p>1a. Complete the revisions to procurement policies and ensure that the procurement directive is finalized and issued within FY 2011.</p>	<p>1. Management concurs</p>
<p>2. Pre-Award Administration Needs Improvement (Repeat finding)</p>	<p>We recommend that the Procurement Office:</p> <p>2a. Implement guidance to describe when acquisition plans are required and how they should be documented.</p> <p>2b. Enforce the procedures contained in the ProcPro addressing the preparation and documentation of SOWs.</p> <p>2c. Prepare and update a procurement plan, for procurements with an extended service delivery period, technical complexity, or changing technological options for service solutions, throughout the procurement lifecycle to ensure that the agency meets its needs in the most effective, economical and timely manner.</p> <p>2d. Ensure that the basis for contractor selection be clearly indicated in all procurement files.</p>	<p>2. Management concurs in part</p>
<p>3. Inadequate Monitoring of OCFO Internal Controls Over Procurement Activities (Repeat finding)</p>	<p>We recommend that the Procurement Office in coordination with the OCFO:</p> <p>3a. Fully implement internal control procedures designed to ensure compliance with FAR, OMB and internal FEC policies and procedures.</p> <p>3b. Establish a process to periodically assess the effectiveness of the internal controls related to procurement functions.</p>	<p>3. Management concurs in part</p>

SUMMARY OF FINDINGS, RECOMMENDATIONS AND MANAGEMENT CONCURRENCE

4.	Lack of Human Capital Plan to Address Risks to Procurement Function (Repeat finding)	We recommend that the FEC: 4a. Implement a human capacity contingency plan based on current staffing levels. While filling the Senior Contract Specialist position would be the simplest way to address the risk, a contingency plan must be in place until such time as that position is filled. The plan should identify internal or external sources to fulfill CO responsibilities. For internal resources, the plan should identify how responsibilities will be shared in order to provide the acting CO the time to perform the procurement duties. Any special training should be identified and completed to ensure that the plan can be implemented on short notice.	4. Management concurs in part
5.	Modification Actions Not Approved By CFO (Modified repeat finding)	We recommend that the Procurement Office: 5a. In coordination with the OCFO, increase monitoring efforts to ensure that current approval policies and procedures are followed. 5b. Review the current approval policy and revise the procedures to clarify the fact that CFO approval may not be required for administrative actions.	5. Management concurs
6.	COTR Training Requirements Were Not Monitored in a Timely Manner (Repeat finding)	We recommend that the Procurement Office: 6a. Utilize the process established by the Director of Procurement, by using the schedule tracking COTR training requirements on a continuous basis, and update the schedule as training certificates are received from COTRs.	6. Management concurs
7.	Contract Monitoring Activity and Tools Were Not Effective (Repeat finding)	We recommend that the Procurement Office: 7a. Establish guidance requiring the use of formal monitoring plans for procurements, where appropriate. 7b. Enforce the responsibilities assigned to COTRs related to contractor performance evaluations. 7c. Implement policies to provide more guidance to COTRs with respect to how procurements are to be monitored and what documentation should be maintained in the files.	7. Management concurs

SUMMARY OF FINDINGS, RECOMMENDATIONS AND MANAGEMENT CONCURRENCE

8.	<p>Procurement Office Provides Limited Formal Oversight of COTRs</p> <p>(Repeat finding)</p>	<p>We recommend that the Procurement Office:</p> <p>8a. Periodically hold meetings with each COTR to assess the monitoring effectiveness for their assigned procurements.</p> <p>8b. Review the COTR’s formal monitoring plan prior to a COTR starting to monitor a given procurement.</p>	8. Management concurs
9.	<p>Lack of Independent Validation for Contract Data Reported in FPDS</p> <p>(New finding)</p>	<p>We recommend that the FEC:</p> <p>9a. Implement periodic testing of FPDS data as part of the OCFO’s internal controls monitoring program, and that the testing be conducted by someone outside of procurement. Access to the Comprizon award data should not be an issue as the CO can run the required reports with which the data can be tested.</p>	9. Management does not concur
10.	<p>Lack of Guidance Related to Time and Materials and Labor-Hour Contracts</p> <p>(Repeat finding)</p>	<p>We recommend that the Procurement Office:</p> <p>10a. Ensure that the FAR requirements for time-and-materials and labor-hour contracts are included in the training materials.</p> <p>10b. Revise the ProcPro to incorporate specific guidance to ensure that COTRs understand the requirements for how to monitor and approve payments on T&M/labor-hour contracts.</p>	10. Management concurs
11.	<p>Contract Close-Out Procedures Are Not Compliant With the FAR</p> <p>(Repeat finding)</p>	<p>We recommend that the Procurement Office:</p> <p>11a. Revise the ProcPros to include procedures for closing out contracts which are complete, and reference the automated Comprizon closeout checklist.</p> <p>11b. Continue to reduce the backlog of contracts requiring close-out by performing close-out procedures in compliance with the FAR.</p> <p>11c. Develop a formal method of tracking which contracts are in need of close-out as well as which contracts have been successfully closed-out.</p>	11. Management concurs

SUMMARY OF FINDINGS, RECOMMENDATIONS AND MANAGEMENT CONCURRENCE

12.	Lack of Adherence With Information Technology Management Reforms (Repeat finding)	We recommend that the FEC: 12a. FEC continue to improve the process that has been initiated since the last audit by specifically identifying the core board members for the ITPRB and to include representation from Budget and Procurement. ITPRB properly document the process by which these decisions are made in the form of minutes or a summary of Board discussion and actions of each meeting, and a clear and understandable list of project priorities that have a direct link to budget allocations.	12. Management does not concur
13.	Blanket Purchase Agreements Are Not Used in Accordance With FAR and OMB Guidance (Modified repeat finding)	We recommend that the Procurement Office: 13a. Coordinate with the Office of the Chief Financial Officer to establish internal control procedures to conduct the annual review of BPAs. 13b. Revise procurement policies with specific procedures for BPAs to ensure compliance with documentation requirements contained in the FAR. 13c. Implement procedures to address the strategies to maximize value from BPAs consistent with guidance from the OMB (December 22, 2009 memorandum).	13. Management concurs
14.	Procedures to Ensure Contract Files Are Complete Need Improvement (Modified repeat finding)	We recommend that the Procurement Office: 14a. Enforce policies and procedures to ensure compliance with the FAR and internal FEC policies related to contract administration. 14b. Revise procurement policies to include guidance which establishes procedures requiring procurement file checklists to be used. 14c. Revise the procurement file checklists to clarify which documents are required to be in a file for a given procurement and which documents are physically included in the file.	14. Management concurs

BACKGROUND

The Federal Election Commission (FEC) is an independent regulatory agency responsible for interpreting, administering, enforcing and defending the Federal Election Campaign Act (FECA). As part of this task, the FEC promulgates regulations implementing FECA requirements, and issues advisory opinions that respond to inquiries from those affected by the law. Additionally, the FEC has jurisdiction over the civil enforcement of the FECA. Finally, FEC attorneys handle civil litigation arising out of any legal actions brought by, or against, the FEC.

The FEC is headed by six Commissioners, appointed by the President, and confirmed by the Senate. Commissioners serve a six year term, and no more than three Commissioners may represent the same political party. By statute, the Commission's chairmanship rotates every year, and the designated chairman has limited authority to set the agency's agenda.

Under the Commissioners, the FEC's organizational structure is separated into four primary offices: the Office of the Staff Director (OSD), the Office of the General Counsel (OGC), the Office of Inspector General, each headed by a statutory officer, and the Office of the Chief Financial Officer (OCFO). Subordinate offices to the General Counsel are titled Associate General Counsels, and each supports one or more of the three core FEC programs. Subordinate organizations to the Staff Director are in most cases called "offices" for staff support activities and "divisions" for line activities that are involved in one or more of the three core programs. Programmatic elements under the Office of the Staff Director include the Disclosure Division, Information Technology, Information Division, the Press Office, Reports Analysis Division (RAD), and the Audit Division. The Office of Inspector General is headed by the Inspector General and reports directly to the Commission. The Office of the Chief Financial Officer manages Finance, Budget and Procurement, and reports directly to the Commission.

In FY 2010, the FEC was provided 338 full time equivalent employees and a budget of \$68.7 million, of which approximately 68.4% was budgeted for staff salaries and benefits, 9.4% for office space rental, 15.2% for OCIO initiatives and 7.0% for all other expenses. The FEC is located in Washington, DC, and has no regional offices.

The FEC's Procurement Office procures goods and services, valued from approximately \$20 million to \$23 million annually, through contracts, delivery orders, purchase orders, blanket purchase agreements and interagency agreements, which represents approximately 30 percent of the FEC's annual appropriation. The FEC enters into a variety of contracts that range significantly in dollar value, duration and complexity. The extent of contract management varies, depending on the size, nature, complexity and risk profile of each contract.

OBJECTIVES, SCOPE AND METHODOLOGY

FEC Management prepared a corrective action plan (CAP) to address the nine findings and fifteen recommendations included in the Office of Inspector General's *2008 Performance Audit of Procurement and Contract Management*. The objective of this audit follow-up was to determine whether management implemented the agreed actions for each recommendation and whether each audit finding in the 2008 report has been fully resolved. The audit follow-up was conducted in accordance with Government Auditing Standards. The FEC OIG engaged Cherry Bekaert & Holland LLP to perform this audit follow-up.

Our review was conducted through the use of the following: detailed interviews; review and evaluation of relevant documents such as internal Procurement Procedures (known as ProcPros), directives, training materials, contract listings; and auditor observation. We conducted interviews to obtain an understanding of the corrective actions implemented since the *2008 Performance Audit of Procurement and Contract Management*. We interviewed key personnel from senior management and staff, from various divisions, involved in procurement activities.

The scope of the audit included a review of purchase instruments (contracts, purchase orders, blanket purchase agreements, delivery orders, and interagency agreements) awarded and executed by the Procurement Office. A sample of 20 procurement instruments were selected, including a number of pre-selected instruments, high risk instruments, one or more instruments from each contract type awarded, and a number of random and judgmental items. The scope of our engagement was limited to a review of the procurement and contract management functions of the FEC's Procurement Office, to include: performing a review of a sample of purchases identifying significant control risks in the policies and procedures of the FEC; and determining compliance with governing laws, in accordance with the Federal Acquisition Regulation (FAR).

We conducted the audit from September, 2010 through May, 2011, in accordance with *Government Auditing Standards*, 2007 revision. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objectives.

The audit methodology was designed to utilize a risk-based approach. To achieve our audit objectives, we reviewed policies and procedures governing the procurement and contracting process; conducted interviews and walk-through procedures with appropriate personnel to document our understanding, and observation of the actual processes in place; identified high risk areas; conducted a detailed review of the sampled procurement files; and surveyed personnel responsible for contract monitoring and oversight. Our sample total of twenty (20) included three (3) contracts, seven (7) delivery orders, five (5) purchase orders, four (4) blanket purchase agreements, and one (1) interagency agreement.

The audit included a review of approximately \$9 million of procurement instruments awarded/executed by the FEC from June 1, 2009 through September 30, 2010. The following table illustrates the total number and dollar values² of procurement instruments tested, compared to the population available for testing.

Procurement Type	Items Sampled	Total Sample Dollar Values	Population Dollar Values
Blanket Purchase Agreement	4	\$ 1,192,143	\$ 3,448,223
Purchase Order	5	\$ 195,279	\$ 713,297
Delivery Order	7	\$ 5,540,691	\$ 10,119,799
Contracts	3	\$ 1,758,018	\$ 2,845,529
Interagency Agreement	1	\$ 250,000	\$ 1,339,381
Totals	20	\$ 8,936,131	\$ 18,466,229

Based on results of our review, we developed findings and recommendations for management, which are in the following section.

² These values represent the obligations recorded in FEC financial systems as provided by agency staff. Cherry, Bekaert & Holland, LLP did not audit the values and did not perform additional procedures to determine whether the values were materially correct.

DETAILED FINDINGS AND RECOMMENDATIONS

Management's responses to the detailed findings were provided in an email dated May 12, 2011 from Mary Sprague, Chief Financial Officer and Bret Zieman, Director of Procurement. Management's responses are included verbatim below.

Finding 1: Procurement Directive Has Not Been Approved and Implemented (OIG 08-02 – Prior Recommendation 1a)

The *2008 Performance Audit of Procurement and Contract Management* audit report recommended that the OCFO finalize and implement policies to ensure that pre-award activities were in compliance with the Federal Acquisition Regulation (FAR). In response to that recommendation, management stated that it was currently revising the Procurement Policy and attachments based on recommendations contained within the OIG audit and that it was planning to issue a procurement directive in FY 2010.

Based on our discussions with management as well as our review of the documentation provided to us, we noted that the Commission has not reviewed or approved the revisions to the procurement policies resulting from the 2008 audit. Management had indicated that it planned to finalize and issue a procurement directive in FY 2010. However, based on discussions with management we found that the OCFO has not completed the process of finalizing the procurement directive. Once the OCFO does finalize the procurement directive it will be forwarded to the Commission for review and approval. The OCFO indicated that they plan to have the procurement directive finalized before the end of FY 2011.

The condition noted above was the result of a delay in the OCFO being able to finalize their efforts to create the procurement directive. This delay could be attributed to multiple factors, such as the impact of multiple continuing resolutions (CR) to the federal budget, which have shifted the OCFO's focus toward other priorities. As a result of this condition, there is an increased risk that procurement activities which do not represent the best interests of the FEC are being processed. Without approved procurement procedures in place, there is an increased risk for misuse of agency funds designated for procurement activities.

Recommendation

We recommend that the OCFO:

- 1a. Complete the revisions to procurement policies and ensure that the procurement directive is finalized and issued within FY 2011.

Management's Response to Finding 1:

Management concurs: The most recent draft Directive 66 is currently being routed for comment. Management is targeting to have the directive approved by the Commission by the end of FY 2011.

Auditor Response:

We believe that management has established an appropriate timeline for finalizing the directive.

Finding 2: Pre-Award Administration Needs Improvement (OIG 08-02 – Prior Recommendation 1a)

Acquisition planning is the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling an agency's need in a timely manner and at a reasonable cost. This includes developing an overall strategy for managing the acquisition. The plan must address all the technical, business, management, and other significant considerations that will control the acquisition. When performed correctly, acquisition planning ensures that the requirements are presented in a way that promotes full and open competition, as well as identifies impediments that could delay the acquisition or lead to increased cost or technical risk. Normally, acquisition plans that propose other than full and open competition due to compelling needs or concerns relating to availability of funds are not approved when the urgency is based on a lack of advance planning (FAR 6.301(c), *Other than full and open competition*).

Pre-award administration is the process of implementing the acquisition plan developed as the first phase of procurement. Pre-award administration was not adequately performed to ensure best value to the FEC with respect to procurement actions. Our review of the acquisition planning and pre-award procedures and processes at the FEC are described below.

The *2008 Performance Audit of Procurement and Contract Management* audit report recommended that the OCFO finalize and implement policies to ensure that pre-award activities were in compliance with the FAR. In response to that recommendation, management stated that it was currently revising the Procurement Policy and attachments based on recommendations contained within the 2008 OIG audit and that it was planning to issue a procurement directive in FY 2010.

We selected a sample of twenty (20) contracts and tested the documentation maintained in the file related to pre-award administration. Specifically, we reviewed each procurement file for: (1) Written Acquisition Plans, (2) Statement of Work, (3) Market Research, (4) Competition, (5) Technical Evaluation, (6) Price Reasonableness and (7) Overall Contractor Selection. Our observations related to each of these items are described below:

1. Lack of Adequate Acquisition Planning

FAR Part 7.1, *Acquisition plans* provides extensive regulations relating to acquisition plans, requirements for agency management, and the requirements for contents of a written acquisition plan. The applicable FAR reference sections are summarized below:

- Subpart 7.102, *Policy*, states that agencies shall perform acquisition planning and conduct market research in order to promote and provide for acquisition of commercial items. If commercial items suitable to meet the agency's needs are not available, non-developmental items should be used, to the maximum extent practicable. In both instances, full and open competition should be used to the maximum extent practicable.
- Subpart 7.103, *Agency-head responsibilities*, also states that the agency head or a designee shall prescribe procedures to ensuring that acquisition planners address appropriate requirements to promote and provide for full and open competition, establish criteria and thresholds to define when a written acquisition plan is required and ensuring that agency planners on information technology acquisitions comply with the capital planning and investment control requirements.
- Subpart 7.105, *Contents of written acquisition plans*, states that written acquisition plans typically includes acquisition background and objectives such as statement of need, applicable conditions, cost, capability of performance, delivery or performance period requirements, and trade-offs, etc. The acquisition plan should also include a plan of action highlighting potential sources, competition, source selection procedures, acquisition considerations, budgeting and funding options.

We found that there were no written acquisition plans documented for any of the procurements included in our sample. Additionally, the ProcPros do not contain adequate guidance related to acquisition planning. Specifically we noted that the policy contained insufficient detail for:

- Designating planners for acquisitions;
- Ensuring that acquisition planners address the requirement to specify needs, develop specifications, and to solicit offers in such a manner to promote and provide for full and open competition with due regard to the nature of the supplies and services to be acquired ([10 U.S.C. 2305\(a\)\(1\)\(A\)](#) and [41 U.S.C. 253a\(a\)\(1\)](#));
- Establishing criteria and thresholds at which increasingly greater detail and formality in the planning process is required as the acquisition becomes more complex and costly;
- Reviewing and approving acquisition plans and revisions to these plans to ensure compliance with FAR requirements;
- Waiving requirements of detail and formality, as necessary, in planning for acquisitions having compressed delivery or performance schedules because of the urgency of the need; and
- Ensuring that knowledge gained from prior acquisitions is used to further refine requirements and acquisition strategies. For services, greater use of performance-based acquisition methods should occur for follow-on acquisitions.

2. Statement of Work (SOW)

FAR 8.405-2, *Ordering procedures for services requiring a statement of work*, states:

“(a) General. Ordering activities shall use the procedures in this subsection when ordering services priced at hourly rates as established by the schedule contracts. The applicable services will be identified in the Federal Supply Schedule publications and the contractor’s pricelists.

(e) Minimum documentation. The ordering activity shall document—

- (1) The schedule contracts considered, noting the contractor from which the service was purchased;*
- (2) A description of the service purchased;*
- (3) The amount paid;*
- (4) The evaluation methodology used in selecting the contractor to receive the order;*
- (5) The rationale for any tradeoffs in making the selection;*
- (6) The price reasonableness determination required by paragraph (d) of this subsection; and*
- (7) The rationale for using other than—*
 - (i) A firm-fixed price order; or*
 - (ii) A performance-based order.”*

FEC ProcPro #8- *Statements of Work*, states:

“The statement of work (SOW) is a description of the physical, functional, or performance characteristics of the supply, service, or construction requirement. It promotes full and open competition, and includes, as appropriate, requirements for inspecting, testing, or preparing the supplies, service or construction for delivery or performance. A SOW may be used to procure: construction, supplies, commodities (e.g., computers, copiers), to supplement firm specifications; or services - professional (e.g., consulting services), maintenance/janitorial, training classes, hotel and conference centers, administrative, and other general services.”

Generally, we found that statements of work were prepared as part of acquisition planning; however, we noted the following:

- Two of the procurements included in our sample were missing a SOW as required by FAR Subpart 8.405-2, *Ordering Procedures for Services Requiring a Statement of Work*.
- For procurements which did contain a SOW, we found that in six instances the SOW was missing certain critical elements, such as work to be performed, location of work, period of performance, deliverable schedule or applicable performance standards.

3. Market Research

Conducting adequate market research is essential to ensuring that procurements are executed in an efficient manner and for the best value. Market research was not adequately performed and documented to ensure best value to the FEC with respect to procurement actions.

FAR Part 10- *Market Research*, states:

“Market research must be conducted to ensure that legitimate needs are identified and trade-offs are evaluated to meet those needs appropriate to the circumstances-

(1) Before developing new requirements;

(2) Before soliciting offers for acquisitions in excess of the simplified acquisition threshold;

(3) Before soliciting offers with an estimated value less than the simplified acquisition threshold when adequate information is not available.”

We reviewed the contract files for documentation related to market research conducted by the Procurement Office (or other agency staff). For each file, we determined whether the contract file documented one or more of the following market research techniques:

- Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements.
- Formally requesting information published in appropriate technical or scientific journals or business publications, as appropriate.
- Querying Government-wide contract databases and other procurement instruments intended for use by multiple agencies and other Government and commercial databases that provide information relevant to agency acquisitions.
- Communicating on-line with industry, acquisition personnel, and customers.
- Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources.
- Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers; or available on-line.
- Holding interchange meetings or pre-solicitation conferences to involve potential offerors early in the acquisition process.

We determined that nine of the files tested contained inadequate documentation of market research. In some cases there may have been evidence to infer that some form of market research was performed, however, in those cases the file still contained no explicit documentation of the research conducted.

4. Competition

We reviewed the contract files for documentation of how competition was considered and promoted as part of the procurement process. We tested the files for evidence that competitive procedures were used during the procurement.

FAR 7.102, *Acquisition Plans - Policy*, states:

“(a) Agencies shall perform acquisition planning and conduct market research (see FAR Part 10) for all acquisitions in order to promote and provide for –

(1) Acquisition of commercial items or, to the extent that commercial items suitable to meet the agency’s needs are not available, non-developmental items, to the maximum extent practicable (10 U.S.C. 2377 and 41 U.S.C. 251, et seq.); and

(2) Full and open competition (see Part 6) or, when full and open competition is not required in accordance with Part 6, to obtain competition to the maximum extent practicable, with due regard to the nature of the supplies or services to be acquired (10 U.S.C. 2301(a)(5) and 41 U.S.C. 253a(a)(1)).”

For procurements which were sole sourced, we reviewed the file for the appropriate justification and approval documentation for a sole source selection as required by FAR 6.3.

FAR 6.303-1, *Justification Requirements*, states:

“(a) A contracting officer shall not commence negotiations for a sole source contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for full and open competition unless the contracting officer—

(1) Justifies, if required in [6.302](#), the use of such actions in writing;

(2) Certifies the accuracy and completeness of the justification; and

(3) Obtains the approval required by [6.304](#).

FAR 6.303-2, *Content*, states:

“(a) Each justification shall contain sufficient facts and rationale to justify the use of the specific authority cited.

(b) As a minimum, each justification shall include the following information:

(1) Identification of the agency and the contracting activity, and specific identification of the document as a “Justification for other than full and open competition.”

(2) Nature and/or description of the action being approved.

(3) A description of the supplies or services required to meet the agency’s needs (including the estimated value).

- (4) An identification of the statutory authority permitting other than full and open competition.*
 - (5) A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.*
 - (7) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.*
 - (8) A description of the market research conducted (see Part 10) and the results or a statement of the reason market research was not conducted.*
 - (12) Contracting officer certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.*
- (c) Each justification shall include evidence that any supporting data that is the responsibility of technical or requirements personnel (e.g., verifying the Government's minimum needs or schedule requirements or other rationale for other than full and open competition) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel."*

We found that two of the contract files included in our sample contained inadequate documentation of competitive procedures used during the procurement process. We also found that one file lacked adequate documentation of justification and approval for a sole source award as required by FAR 6.3- *Other than Full and Open Competition*.

5. Technical Evaluation

We reviewed the contract files included in our sample for documentation related to the technical evaluation performed by the Procurement Office. We also tested to determine if the technical evaluation documentation included certain critical elements, such as the evaluation method used, description of the evaluation processes performed and the basis for the decision reached (in the form of a narrative document, form, checklist or similar).

Our review indicated that eleven (11) of the twenty (20) sample items did not have adequate documentation of the technical evaluation performed. We also found that, when technical documentation was present, there were two instances in which the documentation lacked critical elements as described above.

6. Price Reasonableness

We reviewed the contract files for documentation related to the evaluation of price reasonableness performed by the Procurement Office. We tested the files to determine if documentation of the method used to evaluate price reasonableness was included. We also tested for documentation concluding on the outcome of price reasonableness evaluation (written assertion of reasonableness, such as memo to file or email from the Contracting Officer (CO) to the technical team stating contractor selected represented best value to agency).

Our testing indicated that fourteen of the files tested did not have adequate documentation of the method used to evaluate price reasonableness. We also found that fifteen of the files tested were lacking adequate documentation concluding on the outcome of the price reasonableness evaluation.

7. Overall Contractor Selection

We reviewed the contract files for documentation related to the overall contractor selection. We tested the files for documentation of the basis used for the final overall contractor selection (narrative document or similar). We found that nine of the files did not contain adequate documentation of the overall contractor selection.

In addition to the testing described above, we reviewed the policies for guidance on debarment review. We noted that the Procurement Office's ProcPros do not contain a policy for determining whether a vendor is included on the Excluded Parties List System (EPLS).

The file checklist titled *Procurement File Index- Purchase & Delivery Orders* included a step requiring the EPLS search to be documented in the contract file. However, based on our testing, we found that the second page of this index, which is a detailed checklist (including EPLS steps) titled *FEC PO-DO Checklist*, was frequently observed as missing or incomplete.

The conditions noted above were the result of guidance that has not been fully developed for pre-award procedures and inadequate oversight over pre-award activities. As a result of the conditions noted above, there is an increased risk that the agency did not receive the best value on procurement actions because:

- The agency does not adequately emphasize acquisition planning, when appropriate, therefore decreasing the likelihood that all procurements awarded were aligned to commensurate business needs.
- Procurement actions were not in compliance with the FAR with respect to planning, evaluating and awarding procurements.
- Statements of work did not contain adequate detail, therefore decreasing the ability of the agency to effectively evaluate service delivery.

Recommendations

We recommend that the Procurement Office:

- 2a. Implement guidance to describe when acquisition plans are required and how they should be documented.
- 2b. Enforce the procedures contained in the ProcPro addressing the preparation and documentation of SOWs.

- 2c. Prepare and update a procurement plan for procurements with an extended service delivery period, technical complexity, and changing technological options for service solutions throughout the procurement lifecycle to ensure that the agency meets its needs in the most effective, economical and timely manner.
- 2d. Ensure that the basis for contractor selection be clearly indicated in all procurement files.

Management's Response to Finding 2:

Management concurs in part: Management agrees that it is important to perform effective pre-award planning. The OCFO will plan to update the ProcPros to provide summary guidance and update what documentation would be beneficial to be included in the contract file. However, since the FEC uses competitive RFPs and RFQ's via the GSA schedule and/or GSA eBUY for a large portion of contract awards, the pre-award planning does not need to be as extensive as it would if the FEC were issuing Open Market full and open competition awards via FedBizOpps.

Auditor Response:

The agency's plan to update the ProcPro is responsive to the audit issue and when fully implemented should satisfy the intent of the audit recommendation. We agree that there are certain types of procurement actions which require varying degrees of documentation. We believe that the policies should contain sufficient guidance for the instances in which a greater level of documentation (non-GSA for example) would be required.

Finding 3: Inadequate Monitoring of OCFO Internal Controls Over Procurement Activities (OIG 08-02 - Prior Recommendation 1b)

FEC Policy

FEC ProcPro #4- FPDS Reporting, states:

*“FPDS-NG reporting audits: On an annual basis a random sampling of contract actions generated during the fiscal year requiring FPDS-NG reporting will be pulled and inspected to ensure they are within FAR and FEC Procurement compliance. **This audit is covered within the OCFO Internal Controls procedures.**”* (Emphasis added)

FEC ProcPro #8- File Review and Approval, states:

*“Post Award Monitoring- The CO and/or CFO may conduct periodic reviews of random award files **in accordance with internal control procedures** to determine that all modifications, invoices, and correspondence are properly filed. All findings will be put into a memo and if applicable given to the contract specialist or purchasing agent for file correction.”* (Emphasis added)

FEC ProcPro #10- BPA File Review, states:

“FILE REVIEW: IAW FAR 13.303-6, the following BPA Review Procedures will be coordinated via the Director of Procurement to the appropriate POCs/COTRs through the CFO Internal Control Program on an annual basis.” (Emphasis added)

The 2008 Performance Audit of Procurement and Contract Management audit report recommended that the FEC should establish and implement a continuous monitoring program to ascertain the quality of its procurement activities and ensure consistency in procurement planning and awards. In response to that recommendation, management stated that the OCFO Internal Control Program provides the quality control review to ensure policies and procedures are followed.

In order to verify if management’s response to the prior recommendation was completed successfully, we attempted to obtain documentation related to the OCFO internal controls process mentioned in their policies. Management provided us with the OCFO’s vulnerability assessment checklist results for FY 2010, a letter of assurance for FY 2010, and a list of policies/procedures. While a vulnerability assessment is an important step in the internal control process, it is, by design, only one component of a comprehensive internal control program. Based on our review of the OCFO internal control documentation, we noted limited documentation describing which OCFO internal controls have been established to prevent or detect non-compliance with procurement policies.

Without internal control procedures, there is no formal plan to verify and review procurement performance. Our testing resulted in the following observations:

- There is no documentation related to how the internal controls mentioned in the ProcPros were designed or how effectively they are functioning.
- Due to the nature of the internal controls, which based on our understanding is limited to the risk assessment document provided, the controls would not provide for an effective means of error correction in an existing procurement.
- There is no formal feedback mechanism in the internal control procedures designed to amend current policies or procedures and prevent future instances of non-compliance.

The conditions noted above can be attributed to the fact that the OCFO internal control program has not been fully implemented to include procedures designed to ensure consistency in procurement planning and awards. As a result of the conditions noted above, there is an increased risk of non-compliance for procurement activities being performed. Without an effective quality control mechanism in place, there is a risk of inconsistent procurement management practices and the potential that procurement actions will not be compliant with FAR, OMB and internal FEC policies and procedures.

Recommendations

We recommend that the Procurement Office in coordination with the OCFO:

- 3a. Fully implement internal control procedures designed to ensure compliance with FAR, OMB and internal FEC policies and procedures.
- 3b. Establish a process to periodically assess the effectiveness of the internal controls related to procurement functions.

Management's Response to Finding 3:

Management concurs in part: Management considers the action currently taken annually to evaluate the internal controls of the office do comply with the requirements of the FAR and OCFO internal control procedures. However, the OCFO is continuing to improve upon its internal control program and plans that as part of the FY 2011 internal control review to have an individual outside of the Procurement Division perform a random review of the files to ensure that the files are documented correctly.

Auditor Response:

We believe that the current actions taken by the agency as part of an internal control program do not satisfy all FAR requirements. For example, the ProcPros state that BPAs are reviewed on an annual basis (this is required by FAR 8.405-3) as part of the OCFO internal control process. However, upon further review we determined that this process is not currently a part of any of the internal control procedures described in the documentation provided to us.

In general, we agree that improvements to the OCFO internal control program are needed; a process to implement an independent review of procurement files would help improve the current process. We encourage management to review the ProcPros for all references to the OCFO internal control program and ensure that specific procedures are developed and documented to address each particular procurement activity described in those references.

Finding 4: Lack of Human Capital Plan to Address Risks to Procurement Function (OIG 08-02- Prior Recommendation 1c)

One of the operational risks that are faced by organizations is the need to maintain operations in a continuous and uninterrupted manner. This requires the need to ensure that the organization does not have excessive over-reliance on one person to the point where processes may be inhibited should the individual be absent for an extended length of time. In addition, OMB guidance requires (10/27/2009 Memorandum- *Acquisition Workforce Development Strategic Plan for Civilian Agencies – FY 2010-2014*) providing considerations for the agency's acquisition workforce in a human capital strategic plan.

The *2008 Performance Audit of Procurement and Contract Management* audit report noted periods of extended absence of the Contracting Officer and no human capital plan to address the risk. The prior report also recommended that the FEC consider and address the need to establish adequate human capacity in procurement management to reduce the risk to the agency during periods of absence of the Contracting Officer.

In response to this recommendation from the prior audit, in its fiscal year 2011 Management Assessment, the OCFO proposed to create a new Senior Contract Specialist position that could perform most of the duties of the Contracting Officer in his absence. However, while this position has been created, the OCFO does not have the authorization to fill the position. Therefore, to date, a formal plan is not in place to reduce the risk to the procurement function during periods of extended absence of the Contracting Officer (CO).

As noted in its management assessment, the OCFO has a number of functions that are staffed “one deep.” The Director of Procurement is currently the only CO for the FEC and therefore the only individual who can award contracts on behalf of the FEC. An extended absence of the Contracting Officer could have a severe impact on the Commission’s ability to continue normal procurement operations since the CO is the only individual in the Commission that can award contracts and obligate the Federal Government.

Recommendation

We recommend that the FEC:

- 4a. Implement a human capacity contingency plan based on current staffing levels. While filling the Senior Contract Specialist position would be the simplest way to address the risk, a contingency plan must be in place until such time as that position is filled. The plan should identify internal or external sources to fulfill CO responsibilities. For internal resources, the plan should identify how responsibilities will be shared in order to provide the acting CO the time to perform the procurement duties. Any special training should be identified and completed to ensure that the plan can be implemented on short notice.

Management's Response to Finding 4:

Management concurs in part: Management agrees that there is always the need for human resource and succession planning and has demonstrated that the OCFO has thought about and discussed at length different options for ensuring the successful completion of the office’s responsibilities. However, a more formal document for a small staff does not seem to be the most effective use of staff and management time. Over the past three years, the OCFO has demonstrated that they are able to effectively respond to the needs of the agency based on the circumstances that present themselves. The OCFO continues to look for more effective options for resourcing the Procurement Division and plans to continue to do so.

Auditor Response:

We believe that due to the limited personnel resources available to the agency, and specifically the Procurement Office, the agency is exposed to increased risk by relying on one Contracting Officer. Therefore, we reaffirm our recommendation that, at a minimum, a written contingency plan should be prepared.

Finding 5: Modification Actions Not Approved by CFO (OIG 08-02 - Prior Recommendation 2a)

FEC ProcPro #8- File Review/Approval, states:

“CFO must approve any modification actions, (including administrative changes) which do not impact funding, which will cause an existing procurement to be greater than or equal to \$100,000.”

Based on discussions with the Director of Procurement, the current policy for procurement approvals became effective as of January 1, 2010. We tested modification actions, for the contracts selected in our audit sample, which were awarded after the effective date of this policy for evidence of proper CFO approval. We found that 14 modifications, actions which required CFO approval, totaling \$101,335 did not have evidence of CFO approval. We noted that approximately half of the modifications lacking CFO approval were administrative actions that had no impact on contract funding.

The condition noted above was the result of a lack in proper oversight by the Procurement Office and OCFO to enforce the internal FEC policies and procedures. Approvals are a necessary control to reduce the risk of waste, fraud and abuse. As a result of non-compliance with the agency’s policies, there is an increased risk of waste, fraud and abuse.

Recommendations

We recommend that the Procurement Office:

- 5a. In coordination with the OCFO, increase monitoring efforts to ensure that current approval policies and procedures are followed.
- 5b. Review the current approval policy and revise the procedures to clarify the fact that CFO approval may not be required for administrative actions.

Management's Response to Finding 5:

Management concurs: Since administrative modifications to contracts provide little, if any, financial risk, the OCFO has already updated ProcPro #8 to reflect a more appropriate process of management oversight.

Auditor Response:

The agency's plan to update the ProcPro to reflect intended CFO approval language is responsive to the audit issue and when fully implemented should satisfy the intent of the audit recommendation.

Finding 6: COTR Training Requirements Were Not Monitored in a Timely Manner (OIG 08-02 - Prior Recommendation 3a)

Office of Federal Procurement Policy, *The Federal Acquisition Certification for Contracting Officer Technical Representatives*, dated November 27, 2007, states:

“All COTRs appointed to a contract after the effective date of this policy must be certified no later than six months from their date of appointment and must maintain their skills currency through continuous learning. COTRs who hold delegation letters on active contracts as of the effective date of this policy have generally taken agency-required training. To recognize this earlier training, current COTRs must review their training in accordance with agency policy, ensure that all essential competencies articulated in the attached have been obtained, and be certified no later than 12 months from the effective date of this policy. Any training required to obtain needed competencies can count toward the continuous learning requirement for current COTRs.

The Chief Acquisition Officer of each agency is responsible for the policies and programs necessary to implement this certification program.

Training: *COTRs must have a minimum of 40 hours of training and must maintain their skills currency through continuous learning. The training can be obtained through FAI, the Defense Acquisition University, commercially-available sources, colleges or universities, or agency-specific courses. Twenty-two of the required 40 hours of training hours must cover the essential COTR competencies listed above. A suggested training curriculum includes the following courses. Agencies considering substituting other training for these courses must ensure that the curriculum covers all essential competencies.”*

FEC ProcPro #20- COTR Program, states:

“COTRs are required to take a minimum of 40-hours refresher training every two years when serving as a COTR. The training may include procurement ethics, performance-based contracting, strategic sourcing or other Procurement related topics relevant to COTR assignments. The CAO [Chief Acquisition Officer] shall establish core training

requirements that must be met by the COTRs. Individuals assigned as COTR's are also responsible to ensure the CAO has the proper documentation supporting training outside that assigned by the CAO in order to apply related courses from their area of expertise (project management, government law, fiscal law, etc) to the 40-hr requirement."

The 2008 Performance Audit of Procurement and Contract Management audit report recommended that the FEC Procurement Office ensure COTRs and contract points of contact are provided with adequate training, written responsibilities, and appropriate monitoring tools necessary to accomplish the objectives of their delegated responsibilities.

As described above, the Federal Acquisition Certification for Contracting Officers' Technical Representatives (FAC-COTR) requires that, as of November 27, 2007, all appointed COTRs must be certified no later than six months from their date of appointment, and must maintain their skills currency through continuous learning. The FAC-COTR establishes skills and core competencies for COTRs, and requires a minimum of 40 hours of training every two years. The FEC Chief Acquisition Officer (Director of Procurement) is responsible for establishing and running a training program which satisfies the requirements of the FAC-COTR.

During our follow-up review, we noted that the Director of Procurement has established a process in which he developed a spreadsheet detailing information such as training certification dates, expiration dates, training hours and assigned awards. According to this spreadsheet, two of the six COTRs tested had certifications which expired on March 1, 2011. Upon further inquiry, it was determined that the spreadsheet is not being kept up-to-date and the COTRs' certification remained active.

Therefore, while a process for recording and monitoring the COTR training program has been established, without timely updates the process is not functioning as designed. Without an updated status of COTR training requirements, COTR certifications may expire while the COTR is monitoring a contract. Also, there is an increased risk that FEC COTRs with assigned monitoring duties will not be adequately trained to accomplish the objectives of their delegated responsibilities.

Recommendation

We recommend that the Procurement Office:

- 6a. Utilize the process established by the Director of Procurement by using the schedule tracking COTR training requirements on a continuous basis, and update the schedule as training certificates are received from COTRs.

Management's Response to Finding 6:

Management concurs: The Procurement Division continues to work to provide effective monitoring of COTR training and is working on securing resources to advance this effort.

Auditor Response:

We believe that, although management concurs with the finding, management will need to identify specific plans of action for effectively monitoring training (i.e. timely updates of COTR hours for the current process, etc.) in order to appropriately address the finding. We understand that management intends to secure additional resources to assist with addressing this recommendation; however, management needs to provide more details related to how these resources will be secured. We encourage management to document these details in their corrective action plan that will address the findings and recommendations for this audit.

Finding 7: Contract Monitoring Activity and Tools Were Not Effective (OIG 08-02 - Prior Recommendation 3a)

The *2008 Performance Audit of Procurement and Contract Management* audit report recommended that the FEC Procurement Office ensure that COTRs are provided with and apply appropriate monitoring tools necessary to accomplish the objectives of their delegated responsibilities. We interviewed COTRs to determine what processes or tools they used to monitor procurements assigned to them by the CO. We found in some cases the COTR monitoring activities were ineffective and COTRs lacked the monitoring tools necessary to adequately perform COTR responsibilities.

The inadequacies discovered related to monitoring the period of performance for assigned contracts, security related items and property furnished to the contractor. Specifically, in two instances, it was determined that there was no formal process or method for monitoring period of performance for procurements. It was noted in two instances that the COTR did not establish a mechanism to effectively manage the issuance and return of security related items (keys, badges and similar). Additionally, we noted one instance where the COTR did not have any formal method of tracking government property that was in the possession of the contractors.

Based on the interviews, we found that all of the COTRs were provided standard tools which could be used to monitor contract performance. We determined that the processes and tools utilized by the COTRs to monitor funding and payments on contracts were adequate. However, there were no standard tools provided to the COTRs to monitor security items and government property as mentioned above.

Office of Federal Procurement Policy (OFPP) *Guide to Best Practices for Contract Administration* states:

“The development of a contract administration plan is essential for good contract administration. The plan can be simple or complex but must specify what the performance outputs of the statement of work are, and describe the methodology to conduct the inspections. This saves time and resources because the COTR is not monitoring the mundane, routine portions of the contract; instead the COTR is focusing on the major outputs of the contract.”

As stated above, a formal contract administration plan provides the COTR with a framework for monitoring contract performance. It serves as a guide for the COTR to follow for contract management duties. The plan should contain work tasks and milestones included in the contract. A formal monitoring plan is used to monitor performance on a daily basis as well as over the life of procurement. We found that none of the COTRs interviewed had developed a formal monitoring plan at the outset of the procurement to oversee contract performance.

FEC ProcPro #20- COTR Program, states in the sample COTR assignment letter:

“...You will also be required to evaluate the contractor’s performance at least annually, and at the end of the contract period by providing a written report to the CO.”

We found that none of the COTRs had prepared annual contractor performance evaluations as required in the assignment letter. Some of the COTRs stated that they were familiar with the performance evaluation process; however, they were never required to complete an evaluation for a contractor.

The conditions noted above were a result of inadequate guidance and tools being provided to COTRs from the Procurement Office. As a result, there is an increased risk that COTRs will not be able to effectively monitor the procurements which are assigned to them, thereby decreasing the likelihood that the agency is receiving the best value for the services being provided.

Recommendations

We recommend that the Procurement Office:

- 7a. Establish guidance requiring the use of formal monitoring plans for procurements, where appropriate.
- 7b. Enforce the responsibilities assigned to COTRs related to contractor performance evaluations.
- 7c. Implement policies to provide more guidance to COTRs with respect to how procurements are to be monitored and what documentation should be maintained in the files.

Management's Response to Finding 7:

Management concurs: The Procurement Division continues to work to provide effective monitoring of COTRs and is working on securing resources to advance this effort.

Auditor Response:

We believe that, although management concurs with the finding, management will need to identify specific plans for how effective COTR monitoring will occur in order to appropriately address the finding. We understand that management intends to secure additional resources to assist with addressing this recommendation; however, management needs to provide more details related to how these resources will be secured. We encourage management to document these details in their corrective action plan that will address the findings and recommendations for this audit.

Finding 8: Procurement Office Provides Limited Formal Oversight of COTRs (OIG 08-02 - Prior Recommendation 3b)

Office of Federal Procurement Policy *Letter 05-01* states:

“The CAO is responsible for assessing the current skills inventory of the workforce, identifying short- and long-term agency needs, and establishing plans, including recruitment and retention strategies, for obtaining the acquisition workforce resources and skills required to meet future agency mission needs.”

In our effort to determine the level of oversight and supervision the Procurement Office provides COTRs related to monitoring contracts, we interviewed eight COTRs/POCs (point of contact). Overall, the COTRs/POCs interviewed indicated that, subsequent to their assignment, the CO's involvement in supervising how COTRs monitor procurements is limited to informal discussions or email communication. All COTRs interviewed indicated that there are no formal periodic meetings with the CO to discuss contract monitoring effectiveness. Additionally, in all cases, the COTR stated there is no formal review of monitoring plans by the Procurement Office.

The condition noted above was the result of the Procurement Office providing inadequate oversight over the contract monitoring process. As a result, there is an increased risk that COTRs/POCs will not be able to perform their assigned monitoring duties in an effective manner. Ineffective COTR/POC monitoring could lead to:

- inappropriate contract modifications to extend the period of performance, thereby delaying the delivery of services to the agency;
- inappropriate or inaccurate business justifications for contract modifications to increase contract value, potentially creating unauthorized commitments; and
- contract objectives not being met, thereby causing untimely, inaccurate, and inappropriate contract service or deliverables, or unjustified payment approvals.

Recommendations

We recommend that the Procurement Office:

- 8a. Periodically hold meetings with each COTR to assess the monitoring effectiveness for their assigned procurements.
- 8b. Review the COTR's formal monitoring plan prior to a COTR starting to monitor a given procurement.

Management's Response to Finding 8:

Management concurs: The Procurement Division continues to work to provide effective oversight of COTRs and is working on securing resources to advance this effort.

Auditor Response:

We believe that, although management concurs with the finding, management will need to identify specific plans for how effective oversight of COTRs will occur in order to appropriately address the finding. We understand that management intends to secure additional resources to assist with addressing this recommendation; however, management needs to provide more details related to how these resources will be secured. We encourage management to document these details in their corrective action plan that will address the findings and recommendations for this audit.

Finding 9: Lack of Independent Validation for Contract Data Reported in FPDS (OIG 08-02 - Prior Recommendation 4a & b)

The Federal Procurement Data Center (FPDC) operates the Federal Procurement Data System - Next Generation (FPDS-NG), and is located at the General Services Administration. The FPDC produces reports, which examine various aspects and impacts of the federal acquisition process. The statistical data are used for geographical analysis, market analysis, and analysis on the impact of congressional and presidential initiatives in socio-economic areas such as small business, small disadvantaged business, women-owned business, historically black colleges/universities or minority institutions, HUBZone awards, and awards to a nonprofit agency employing people who are blind or severely disabled.

The Office of Federal Procurement Policy (OFPP) Act, as amended, 41 U.S.C. 401 et. seq., and FAR Subpart 4.6, *Contract reporting*, require that federal agencies establish and maintain a computer based system to collect and report procurement data to the FPDS-NG for collecting and disseminating statistical procurement data to Congress, the Executive Branch and the private sector.

The Commission is also required to send a letter to OMB each year certifying the accuracy of FPDS-NG data reported, and also confirming that periodic testing of FPDS-NG data was

performed by an individual outside of procurement. This is based on OFPP guidance issued October 7, 2009, titled *Improving Acquisition Data Quality for Fiscal Years 2009 and 2010*, exhibit 2, procedure 3, which states the following:

“Each sampled contract action report (CAR) must be validated against the associated contract file by an individual other than the contracting officer who awarded the contract or the person entering the contract data for that contract action record.”

FEC ProcPro #4- FPDS-NG, states:

“FPDS-NG reporting audits: On an annual basis a random sampling of contract actions generated during the fiscal year requiring FPDS-NG reporting will be pulled and inspected to ensure they are within FAR and FEC Procurement compliance. This audit is covered within the OCFO Internal Controls procedures.”

FEC [FY 2009] Agency FPDS Data Quality Report- Exhibit 1, states:

“INTERNAL CONTROLS: Effective with FY 10 the FEC Office of the CFO will be auditing the FPDS-NG reporting as part of the overall internal control procedures. A percentage of contract actions that required CARS/FPDS-NG reports will be selected at random and evaluated by a manager/supervisor outside of the FEC Procurement Office. Any errors found will require correction reports to be issued and another random sampling of additional contracts and/or the full review of all actions to ensure data quality and accuracy.”

The Procurement Office uses the Comprizon system to generate FPDS-NG reports. Procurement personnel are the only users of Comprizon (with the exception of the system administrator) and as noted by the Director of Procurement, there are no personnel with the requisite knowledge and experience to perform a review of FPDS-NG reporting in accordance with the requirements above. Currently, the Contracting Officer is the only individual with the authority to approve FPDS-NG data reports generated in Comprizon. The monitoring function of the internal control processes established in the OCFO's office has not yet been implemented to include periodic testing of FPDS-NG data by someone outside of procurement.

The Director of Procurement indicated that the default reporting option in Comprizon, the Commission's purchase request and contract writing system, requires the procurement actions stated above to be filled out and submitted to FPDS-NG. However, he also indicated that it was possible to manually deselect this option and consequently disable the FPDS-NG reporting feature. Thus, there is a system control for ensuring procurement data is correctly reported to FPDS, but because part of the reporting feature can be disabled by users, this control is inherently less effective.

The OMB requirement above, states that FPDS-NG data testing must be performed annually and the data certification document submitted by the Procurement Office to OMB indicates that testing is performed by someone outside the procurement function. Given the inherent ability to disable the reporting option in Comprizon, this procedure would provide a good compensating control to this potential weakness. However, in the current process, the Director of Procurement

is responsible for reviewing and approving his own data input in FPDS-NG, resulting in an ineffective detection control due to a lack of segregation of duties, as the Director of Procurement is testing his own work. Having the same individual review their own work is an ineffective detection control. In addition, the Commission is unable to provide the proper certification to OMB that someone outside of procurement actually tested the data.

Recommendation

We recommend that the FEC:

- 9a. Implement periodic testing of FPDS data as part of the OCFO's internal controls monitoring program, and that the testing be conducted by someone outside of procurement. Access to the Comprizon award data should not be an issue as the CO can run the required reports with which the data can be tested.

Management's Response to Finding 9:

Management does not concur: As the OCFO understands the report that is due to OFPP, the report is due annually, and does not require testing of the accuracy of the data. Rather, agencies must certify that the information entered into FPDS-NG at the time of award was complete and accurate. While the memo suggests that an independent individual verify the accuracy of the data, it is not required. In a small agency, workloads do not always allow for an independent review. However, the OCFO does have a review of the FPDS-NG information as part of its annual internal control review.

Auditor Response:

Even though management does not concur, we believe that the guidance from OMB (Memorandum, dated March 09, 2007, *Federal Procurement Data Verification and Validation*) describes a requirement for agencies to validate and verify the data reporting in FPDS on an annual basis. This validation is a separate and distinct process from the certification of completeness and accuracy. The guidance also supports our recommendation that an independent person must conduct the validation procedures. We encourage management to ensure that documentation of the review performed on FPDS information during the annual internal control review is maintained in order to support the data quality testing OMB requires for FPDS reporting.

Finding 10: Lack of Guidance Related to Time and Materials and Labor-Hour Contracts (OIG 08-02 - Prior Recommendation 5a)

FAR 52.232-7, *Payments under Time-and-Materials, and Labor-Hour contracts*, the regulation states:

“The Government will pay the contractor upon the submission of vouchers approved by the CO or the authorized representative.” “The Contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by-

- *Individual daily job timekeeping records;*
- *Records that verify the employees meet the qualifications for the labor categories specified in the contract; or*
- *Other substantiation approved by the contracting officer.”*

The 2008 *Performance Audit of Procurement and Contract Management* found that “the FEC was not in compliance with federal laws and regulations with respect to payment approvals on time-and-materials and labor-hour contracts.” The report recommended that the FEC develop a communication and training plan to ensure that the contracting personnel fully understand the requirements of FAR as they relate to payments on time-and-materials and labor-hour (T&M/LH) contracts.

The Procurement Office’s corrective action plan stated that the CO would revise ProcPro #020 to issue further guidance related to ensuring that COTRs who have award actions involving T&M/LH contracts obtain an understanding on how to monitor and administer these types of actions. After reviewing the revised policy, there appears to be little or no guidance related to requirements for COTRs involved in T&M/LH contracts.

Based on discussion with the CO, it was noted that COTRs are being provided guidance on how to effectively monitor requirements for T&M/LH invoices through the Comprehensive COTR training class. The CO provided us with the materials used during that training course. Based on our review of the training materials used, we determined that while T&M/LH contracts are described, there was no specific guidance related to how invoices from these contracts need to be supported and reviewed. While it is possible that guidance was provided verbally during class discussion, based on the printed course book we were unable to identify course training materials that included guidance related to monitoring T&M/LH contracts.

The Procurement Office has not updated the Procurement Policy to include specific language regarding the requirements under FAR for monitoring T&M/LH contracts and more importantly how to review and accept invoices for these contracts. As a result of the condition above, there is an increased risk that time-and-materials and labor-hour contracts and payments are not in compliance with FAR requirements.

Recommendations

We recommend that the Procurement Office:

- 10a. Ensure that the FAR requirements for time-and-materials and labor-hour contracts are included in the training materials.
- 10b. Revise the ProcPro to incorporate specific guidance to ensure that COTRs understand the requirements for how to monitor and approve payments on T&M/labor-hour contracts.

Management's Response to Finding 10:

Management concurs: The Procurement Division has already initiated the action to update the ProcPro #6 to incorporate the guidance specific to T&M/labor-hour contracts.

Auditor Response:

The agency's plan to update the ProcPro to incorporate specific guidance for T&M/LH contracts is responsive to the audit issue and when fully implemented should satisfy the intent of the audit recommendation. We look forward to reviewing the details contained in the revised policy.

Finding 11: Contract Close-Out Procedures Are Not Compliant With the FAR (OIG 08-02 - Prior Recommendation 6a)

FEC is required by FAR 4.804-5, *Procedures for Closing out Contract Files* to perform administrative close-out. In addition, FAR 4.805, *Storage, Handling, and Disposal of Contract Files*, requires FEC to establish procedures for handling, storing, and disposing of contracts.

The *2008 Performance Audit of Procurement and Contract Management* stated that the FEC Procurement Office should immediately institute formal contract close-out procedures, and establish and implement adequate internal control over the contract administration process. Contract close-out is a critical process in the life of a contract and should be a continuous effort to ensure that contract files are administered in accordance with FAR. During our review, we noted that FEC currently has not documented contract close-out procedures.

Based on discussion with the Director of Procurement, we have determined that contracts have not been closed out over the past several years. This has resulted in a backlog of contracts which need to be closed-out. The Director of Procurement has indicated that he has begun to reduce the backlog of contracts needing close-out. We noted that some of the contracts tested in our sample have a note attached to the cover to indicate that they were ready for close-out. The corrective action plan indicates that close-out information would be annotated on the contract file checklists when appropriate, however, based on our review of the file checklists, no such information was observed in any of the files reviewed.

We found that the condition noted above was the result of inadequate internal controls over the contract administration process. Specifically, the FEC did not have a process in place for identifying contracts that should be closed out, when the close-out should commence, the procedures to be performed, and documentation to be maintained as evidence of proper close-out in accordance with FAR.

Starting January 1, 2011, a more robust contract closeout feature was included in Comprizon, and going forward this checklist will be incorporated into the formal contract closeout procedures. This feature provides the FEC with a systematic method for performing contract closeouts in accordance with FAR requirements

It should be noted that the Comprizon procedures discussed above are not included in the ProcPro, thereby increasing the risk of contracts being closed out in a manner that is not in compliance with the provisions of the FAR. Also, excess funds on completed contracts that are not de-obligated present the opportunity for fraud, waste and abuse of the remaining funds.

Recommendations

We recommend that the Procurement Office:

- 11a. Revise the ProcPros to include procedures for closing out contracts which are complete, and reference the automated Comprizon closeout checklist.
- 11b. Continue to reduce the backlog of contracts requiring close-out by performing close-out procedures in compliance with the FAR.
- 11c. Develop a formal method of tracking which contracts are in need of close-out as well as which contracts have been successfully closed-out.

Management's Response to Finding 11:

Management concurs: The OCFO has revised ProcPro #10 to address the closeout process and checklists which will be used, specifically for contract close-out in compliance with the provisions of the FAR. The Procurement Division continues to work on closing out completed contracts and is working on securing resources to advance this effort.

Auditor Response:

The agency's plan to update the ProcPro to address contract close-out is responsive to the audit issue and when fully implemented should satisfy the intent of the audit recommendation. We understand that management intends to secure additional resources to assist with addressing this recommendation; however, management needs to provide more details related to how these resources will be secured. We encourage management to document these details in their corrective action plan that will address the findings and recommendations for this audit.

Finding 12: Lack of Adherence With Information Technology Management Reforms (OIG 08-02 - Prior Recommendation 7a)

The Clinger-Cohen Act (CCA), formerly the Information Technology Management Reform Act of 1996 (ITMRA), is a 1996 United States federal law designed to improve the way the federal government acquires, uses and disposes of information technology (IT). The CCA supplements the information resources management policies by establishing a comprehensive approach for executive agencies to improve acquisition and management of the information resources, by:

- focusing information resource planning to support their strategic missions;
- implementing a capital planning and investment control process that links to budget formulation and execution; and
- rethinking and restructuring the way they do their work before investing in information systems.

The Clinger-Cohen Act of 1996 directed the development and implementation of a process to maximize the benefits of information technology (IT) management within the federal government. Micro agencies reporting under the Accountability of Tax Dollars Act of 2002, which includes the FEC, are encouraged to comply with best practice principles as outlined in the Clinger-Cohen Act for information technology investments. Based on our review of FEC documents, which include the FEC's Annual Performance and Accountability Report (PAR), the FEC voluntarily complies with both the spirit and intent of the CCA.

The original findings in the *2008 Performance Audit of Procurement and Contract Management* relate to the lack of adherence with information technology management reforms of the Clinger-Cohen Act. The previous report specifically recommended that the FEC establish a formal project review group to adhere to information management technology reforms and the project review group should perform the following:

- Develop a formal charter,
- Include representatives across the agency to include staff from OCFO, Budget and Procurement areas; and
- Document key decisions to include information technology priorities, and retain records of meeting minutes and decisions.

Our audit has found that progress has been made to comply with the reforms recommended by the CCA. An Information Technology Project Review Board (ITPRB) has been established by a formal charter on October 16, 2009 in response to the recommendation noted above. We also noted that the ITPRB has created and documented a prioritized list of IT projects that it has provided to the finance committee for consideration as part of the budget process. Within the Charter, there is a section called "Resources Required" which lists the FEC core Board members, or designee. However, while the CFO has been included as one of the "FEC core Board members," representatives from the Budget and Procurement areas have not been specifically included, as recommended in the previous audit report. Also, we were not provided with documentation of ITPRB meeting actions in the form of minutes or meeting summaries, as recommended by the *2008 Performance Audit of Procurement and Contract Management*. It is therefore not possible to determine whether all potential users have been surveyed and provided input on strategic information technology needs and prioritization.

As the issue is primarily one of documentation of the meeting discussions, it appears that final steps need to be taken to memorialize the process that has been put into place, and to ensure that the maximum benefit is derived from having the appropriate members on the Board. As a result of the condition noted above, the FEC may not have maximized value or ensured that all IT procurements were technically viable, fully met user needs, and presented the best value for money. There is an increased risk that the FEC may have acquired information technology products and services that did not fully meet its needs, resulting in wasted funds.

Recommendation

We recommend that the:

- 12a. FEC continue to improve the process that has been initiated since the last audit by specifically identifying the core board members for the ITPRB and to include representation from Budget and Procurement.

ITPRB properly document the process by which these decisions are made in the form of minutes or a summary of Board discussion and actions of each meeting, and a clear and understandable list of project priorities that have a direct link to budget allocations.

Management's Response to Finding 12:

Management does not concur: Management has established, by charter, an IT Project Review Board with membership that is adequate for the scope of the IT program within this agency. IT projects are documented not only via the IT Review Board, but then again through the Finance Committee. The projects agreed to by the Board and the approval of the Finance Committee are both documented to a level that is also commensurate with the scope of the IT program within this agency. IT priorities are always discussed and considered during the entire budget formulation, justification and execution process. The Finance Committee and IT Review Board both document summaries of the discussions and decisions made at the meetings.

Auditor Response:

Consistent with the prior report, we believe that the agency should specifically include representatives from the Budget and Procurement divisions in the board's official charter. We believe that management should take steps to improve the visibility of strategic decision making for IT projects, specifically that meeting minutes should be kept to document the decision making process, this is also consistent with the prior recommendation.

Finding 13: Blanket Purchase Agreements Are Not Used in Accordance With FAR and OMB Guidance (OIG 08-02 – Prior Recommendation 8a)

A blanket purchase agreement (BPA) is a simplified acquisition method that government agencies utilize to meet projected, repetitive needs for supplies and services. BPAs provide the agency with an effective way to leverage their buying power to meet the needs of recurring requirements. BPAs reduce redundancies in the procurement process, and offer pricing stability because negotiated prices are fixed for the duration of the contract performance period. By using BPAs, agencies are able to avoid creating numerous purchase orders for a broad class of supplies and services.

Guidance

The Office of Management and Budget's Office of Federal Procurement Policy (OFPP) released a Memorandum, dated December 22, 2009, titled *Achieving Better Value from Our Acquisitions* which provides guidance on the proper use of BPAs. The memorandum states, in part:

"The Federal Acquisition Regulatory Council is currently reviewing options for strengthening the FAR's coverage on BPAs, including the competition rules associated with establishing and placing orders under BPAs. This clarification will further help to ensure discounts are routinely sought and maximize the value received from BPA orders. I have asked that this review be given expedited attention."

While FAR changes are pending, agencies should take the following steps:

- 1. **Take advantage of competition.** Compete the establishment of new BPAs. Seek to establish multiple BPAs whenever possible so that competition can be conducted among the BPA holders to keep prices fresh at the time orders are placed. Competition at the order level is especially critical for the acquisition of services where initial prices are based on fixed hourly rates rather than fixed prices for accomplishing specific tasks.*
- 2. **Negotiate discounts.** Seek discounts when establishing schedule BPAs and, as appropriate, when placing orders, especially large dollar orders. Discounts may be sought in a number of ways, such as in the request for quote when establishing the BPA or during negotiations. Agencies should consider making the offer of a discount by the contractor a condition for awarding the BPA.³ For existing BPAs, focus on those for which no discount has been sought, especially for products and where only one BPA has been awarded.⁴ If, upon review, the agency determines that renegotiation of a BPA could lead to discounts—or deeper discounts—for agency buyers, explore, in consultation with agency counsel, what options are immediately available.*
- 3. **Review BPAs at least annually.** As required by FAR 8.405-3(d), these reviews should address whether: (1) the schedule contract upon which the BPA was established is still in effect, (2) the BPA still represents the best value, and (3) estimated quantities/amounts have been exceeded and additional price reductions can be obtained. No orders should*

be placed under a BPA after the annual anniversary of its establishment until the agency makes this determination and documents the results of its review.”

FEC ProcPro #10- BPA File Review and Closeout, states:

“FILE REVIEW: IAW FAR 13.303-6, the following BPA Review Procedures will be coordinated via the Director of Procurement to the appropriate POCs/COTRs through the CFO Internal Control Program on an annual basis. The contracting officer that entered into the BPA shall –

A. Ensure that each BPA is reviewed at least annually and, if necessary, updated any pertinent contract information at that time; and

B. If the BPA is under a GSA Schedule ensure that the most recent GSA Schedule for pricing has been distributed to the ordering officials and inserted into the file.

C. Maintain awareness of changes in market conditions, sources of supply, and other pertinent factors that may warrant making new arrangements with different suppliers or modifying existing arrangements.

FILE CLOSEOUT: IAW FAR 13.303-7, BPA Closeout Procedures will be coordinated by the contracting officer. An individual BPA is considered complete when the purchases under it equal its total dollar limitation, if any, or when its stated time period expires. Upon expiration of time or at the time when the last order reaches the maximum order (ceiling) amount, the BPA shall be closed IAW the normal process for contract closeout within the procurement policy.

Note: Annual reviews will be initiated via the OCFO Internal Controls policy.”

FAR 8.405-2, Ordering procedures for services requiring a statement of work, states:

“(a) General. Ordering activities shall use the procedures in this subsection when ordering services priced at hourly rates as established by the schedule contracts. The applicable services will be identified in the Federal Supply Schedule publications and the contractor’s pricelists.

(e) Minimum documentation. The ordering activity shall document—

(1) The schedule contracts considered, noting the contractor from which the service was purchased;

(2) A description of the service purchased;

(3) The amount paid;

(4) The evaluation methodology used in selecting the contractor to receive the order;

(5) The rationale for any tradeoffs in making the selection;

(6) The price reasonableness determination required by paragraph (d) of this subsection; and

- (7) *The rationale for using other than—*
(i) *A firm-fixed price order; or*
(ii) *A performance-based order.”*

The *2008 Performance Audit of Procurement and Contract Management* audit report recommended that the FEC should review FAR guidance on different procurement instruments, such as BPAs, institute policies and procedures to ensure that the instruments are used as prescribed, and that management obtain and review multiple bids as part of the BPA procurement process. In response to that recommendation, management stated that BPA procedures are being reviewed and will be issued as a ProcPro attached to the standard policy. The ProcPro will also clarify annual review requirements.

Based on our review of the existing ProcPros, it has been determined that the agency has not established adequate procedures to implement the guidance contained in the OMB memorandum dated December 22, 2009. The areas of the memorandum which are not adequately addressed in current policies include:

- Compete the establishment of a new BPA, seek to establish multiple BPAs whenever possible so that each order could be competed; and
- Actively seek out discounted rates from vendors.

Our audit sample included four procurements awarded as BPAs. We reviewed the files to determine if there was documentation of multiple bids to indicate competition, evidence of discounts, justification for selection, evidence of annual review and compliance with FAR requirements. We found that one of the BPAs did not contain evidence of multiple bids.

The FEC is required by FAR 8.405-3(d), *Blanket purchase agreements (BPAs)*, to review BPAs at least annually and to document that review. We noted that none of the BPA files we tested contained documentation of an annual review. The purpose of an annual review is to ensure that the BPA is still needed and represents the best value to the agency.

The FAR requires that certain documentation be maintained for procurements which are awarded using a Federal Supply Schedule, such as a GSA schedule. For procurements that provide services priced at an hourly rate as established by a GSA schedule, the FEC is required by FAR 8.405-2, *Ordering procedures for services requiring a statement of work*, to maintain documentation. We noted that the services provided in three of the BPAs included in our audit sample were not established using firm-fixed price orders. We found that none of these three procurement files contained documentation of the rationale for using a BPA other than a firm-fixed price order. We also found that two of the BPAs we tested did not contain documentation of any tradeoffs made in making the contractor selection, or documentation of how the agency considered the level of effort and labor mix to perform the specific tasks in the orders.

The conditions noted above were caused by a failure to consistently apply the guidance contained in the FAR, the OMB memorandum and FEC internal policies. As a result, there is an increased risk that services procured through the use of BPAs do not represent the best value to

the agency. Additionally, there is an increased risk of fraud, waste and abuse as a result of the non-compliance with established regulations and policies.

Recommendations

We recommend that the Procurement Office:

- 13a. Coordinate with the Office of the Chief Financial Officer to establish internal control procedures to conduct the annual review of BPAs.
- 13b. Revise procurement policies with specific procedures for BPAs to ensure compliance with documentation requirements contained in the FAR.
- 13c. Implement procedures to address the strategies intended to maximize value from BPAs consistent with guidance from the OMB (December 22, 2009 memorandum).

Management's Response to Finding 13:

Management concurs: The Procurement Division did compete all BPA's currently used, however recognizes that the information may not have been readily available in the files as required. In addition where BPA's are used and the service or product is a new requirement, the action of ensuring competition between the BPA holders will be paramount for all future BPA calls. The office will take additional administration steps to ensure files are documented in accordance with FAR in future BPA's and input that data for current BPA's at time of annual reviews.

The Procurement Division has updated ProPro #10 to be more inclusive of not only BPA annual review information, but clear information concerning specific data requirements for BPA's as to current schedule pricing and close out processes has been added.

The Procurement Division is always looking at ways to use BPA's where the services or products fit our need. The majority of supplies purchased via the Government Purchase Card are bought off existing GSA GWAC BPAs to include the newly awarded Strategic Sourcing Office Supply agreements via GSA advantage and thus the FEC does not need to create new BPAs for these items.

Auditor Response:

The agency's plan to update the ProcPro to include additional guidance for BPAs and to increase efforts to retain BPA documentation is responsive to the audit issue and when fully implemented should satisfy the intent of the audit recommendation.

Finding 14: Procedures to Ensure Contract Files Are Complete Need Improvement (OIG 08-02 – Prior Recommendation 9a)

A complete, accurate, and readily accessible contract filing system is a key component to efficient operations of a procurement management office. As outlined in FAR 4.8, *Government contract files*, the head of each office performing contracting, contracts administration or paying functions shall establish files containing the records of contractual actions. The documentation in the files shall be sufficient to constitute the complete history of the transaction for the purposes of:

- Providing complete background as a basis for informed decisions at each step in the acquisition process;
- Supporting actions taken;
- Providing information for reviews and investigations; and,
- Furnishing essential facts in the event of litigation or congressional inquiry in accordance with FAR 4.803, *Contents of contract files*.

The files to be established include:

- A file for cancelled solicitations;
- A file for each contract; and
- A general file for a contractor containing documents relating to:
 - No specific contract;
 - More than one contract; or
 - The contractor in a general way (e.g., contractor's management systems, past performance, or capabilities). FAR 4.801 (c), *Government contract files*.

Files must be maintained in a standard manner to ensure:

- Effective documentation of contract actions;
- Ready accessibility to users;
- Minimal establishment of duplicate and working files;
- Safeguarding of classified documents;
- Conformance with agency regulations for file location and maintenance;
- Contractor bid or proposal information or source selection information is protected from disclosure to unauthorized persons; and
- Contract files are retained in an appropriate combination of medium (paper, electronic, etc.) in accordance with FAR 4.802(f), *Contract files*.

The *2008 Performance Audit of Procurement and Contract Management* audit report recommended that the OCFO implement procedures to ensure that adequate documentation is maintained and retained in the contract files. This process should be sufficient to enable supervisory review of the contract files to ensure compliance. In response to that recommendation, management stated that it would issue a ProcPro that will require an index

(w/checklist) in each award file in order to properly document pre/post award information in a standard format.

FEC ProcPro #8- *File Review and Approval*, states:

“The contract specialist and/or purchasing agent is responsible for assuring that the file (RFP, Award, or Modification) is properly labeled and that all required documents are filed and tabbed in accordance with the applicable file content checklist.”

Our review of the procurement policies noted that the ProcPros do not contain adequate guidance describing when or how procurement file checklists should be included and used for contract file administration. We tested a sample of contract files for compliance with FAR and internal FEC policies. Based on the testing, we noted the following:

- Four of the files were missing a procurement file checklist.
- Six of the purchase/delivery orders (PO/DO) were missing the detailed PO/DO file checklist (2nd page).
- Seven of the files included a file checklist which did not accurately represent the contents of the file (either items marked on the checklist were missing from the file or items were included in the file but not marked on the checklist).
- Ten files contained documentation deficiencies which would prevent an effective supervisory review from being performed.
- Seven of the files did not contain a Determination and Finding for the inclusion of options in the contract.
- Five of the files did not contain a Determination and Finding for the exercise of options.

The conditions noted above were the result of insufficient oversight over the contract administration process and of the absence of effective internal controls designed to ensure compliance with procurement policies. As a result of the non-compliance with internal policies, there is an increased risk of inadequate oversight and internal control over the procurement process, and contract files that do not contain the required documentation according to the FAR.

Recommendations

We recommend that the Procurement Office:

- 14a. Enforce policies and procedures to ensure compliance with the FAR and internal FEC policies related to contract administration.
- 14b. Revise procurement policies to include guidance which establishes procedures requiring procurement file checklists to be used.
- 14c. Revise the procurement file checklists to clarify which documents are required to be in a file for a given procurement and which documents are physically included in the file.

Management's Response to Finding 14:

Management concurs: The Procurement Division continues to work to ensure contract files are complete and is working on securing resources to advance this effort.

Auditor Response:

We believe that, although management concurs with the finding, management will need to identify specific plans for how completeness of contract files will be ensured in order to appropriately address the finding. We understand that management intends to secure additional resources to assist with addressing this recommendation; however, management needs to provide more details related to how these resources will be secured. We encourage management to document these details in their corrective action plan that will address the findings and recommendations for this audit.

ATTACHMENT- PRIOR FINDING STATUS

<i>OIG 08-02 Performance Audit of Procurement and Contract Management</i>			
Prior Finding	Prior Recommendation	Management Status August 2010	2010 Follow-up Audit Testing NFR
1. Lack of Adequate Acquisition Planning and Pre-Award Administration	1a. The Contracting Officer should finalize and implement policies and procedures to ensure all aspects of procurement planning and pre-award activities are performed, as required under the FAR.	Implemented as of March 5, 2010. Not yet formally approved by Commission.	Open (Repeat finding) Refer to Finding 1. <i>Procurement Directive Has Not Been Approved and Implemented</i> on page 10 and Finding 2. <i>Pre-Award Administration Needs Improvement</i> on page 11.
	1b. The FEC should establish and implement a continuous monitoring program to ascertain the quality of its procurement activities and ensure consistency in procurement planning and awards.	Completed January 26, 2010	Open (Repeat finding) Refer to Finding 3. <i>Inadequate Monitoring of OCFO Internal Controls Over Procurement Activities</i> on page 18.
	1c. In addition to the Director of Procurement, employed by the FEC, and delegated the responsibility of Contracting Officer; the FEC should consider and address the need to establish adequate human capacity in procurement management to reduce the risk to the agency during periods of absence of the Contracting Officer.	Implemented as of March 5, 2010. Not yet formally approved by Commission.	Open (Repeat finding) Refer Finding 4. <i>Lack of Human Capital Plan to Address Risks to Procurement Function</i> on page 20.
2. Process for Approving Contract Awards Requires Improvement	2a. The Procurement Office should fully enforce the agency's policies on required approvals before executing procurement awards and modifications.	Completed January 26, 2010	Open (Modified repeat finding) Refer to Finding 5. <i>Modification Actions Not Approved By CFO</i> on page 22.

OIG 08-02 Performance Audit of Procurement and Contract Management

Prior Finding	Prior Recommendation	Management Status August 2010	2010 Follow-up Audit Testing NFR
3. Lack of Adequate Oversight and Monitoring of Procurement Activities	3a. Ensure COTRs and contract points of contact are provided with adequate training, written responsibilities, and appropriate monitoring tools necessary to accomplish the objectives of their delegated responsibilities.	Completed January 26, 2010	Open (Repeat finding) Refer to Finding 6. <i>COTR Training Requirements Were Not Monitored in a Timely Manner</i> on page 23 and Finding 7. <i>Contract Monitoring Activity and Tools Were Not Effective</i> on page 25.
	3b. Monitors and advises COTRs and contract points of contact to ensure that they perform their responsibilities, as required under FAR and best practices recommended under DCAA guidelines.	Completed January 26, 2010	Open (Repeat finding) Refer to Finding 8. <i>Procurement Office Provides Limited Formal Oversight of COTRs</i> on page 27.
4. Contracting Data Reported in the Federal Procurement Data System is not Accurate	4a. The FEC Procurement Office should establish processes to consistently and accurately report contract amounts in FPDS-NG.	Completed January 26, 2010	Closed.
	4b. The FEC should provide adequate oversight of FPDS-NG reporting and review the amounts reported, to ensure that they agree with contract values.	Completed January 26, 2010	Open (Repeat finding) Refer Finding 9. <i>Lack of Independent Validation for Contract Data Reported in FPDS</i> on page 28.
5. Payments on Time-and-Materials and Labor-Hour Contracts were not Adequately Supported	5a. The FEC should develop a communication and training plan to ensure that contracting personnel fully understand the requirements of FAR as they relate to payments on Time-and-Materials and Labor-Hour Contracts.	Completed January 26, 2010	Open (Repeat finding) Refer Finding 10. <i>Lack of Guidance Related to Time and Materials and Labor-Hour Contracts</i> on page 31.
6. Contract Close-Out Procedures are not Compliant with the FAR	6a. The FEC Procurement Office should immediately institute formal contract close-out procedures, and establish and implement adequate internal control over the contract administration process.	Completed January 26, 2010	Open (Repeat finding) Refer Finding 11. <i>Contract Close-Out Procedures Are Not Compliant With the FAR</i> on page 32.

OIG 08-02 Performance Audit of Procurement and Contract Management

Prior Finding	Prior Recommendation	Management Status August 2010	2010 Follow-up Audit Testing NFR
7. Lack of Adherence with Information Technology Management Reforms	7a. The FEC should establish a formal project review group to adhere to information management technology reforms and federal agency responsibilities consistent with the intent under the Clinger-Cohen Act. Specifically, the project review group should: <ul style="list-style-type: none"> • Develop a formal charter, • Include representatives across the agency to include staff from OCFO, Budget and Procurement areas; and • Document key decisions to include information technology priorities and retain records of meeting minutes and decisions. 	Planned implementation April 2010	Open (Repeat finding) Refer Finding 12. <i>Lack of Adherence With Information Technology Management Reforms</i> on page 34.
8. Blanket Purchase Agreements Were Not Used in Accordance with FAR	8a. The FEC should review FAR guidance on different procurement instruments, such as BPAs, and institute policies and procedures to ensure that the instruments are used as prescribed. We also recommend that management obtain and review multiple bids as part of the BPA procurement process.	Completed January 26, 2010	Open (Modified repeat finding) Refer Finding 13. <i>Blanket Purchase Agreements Are Not Used in Accordance With FAR and OMB Guidance</i> on page 36.
9. Contract File Recordkeeping Incomplete	9a. Implement procedures to ensure that adequate documentation is maintained and retained in the contract files. This process should be sufficient to enable supervisory review of the contract files to ensure compliance.	Completed January 26, 2010	Open (Modified repeat finding) Refer Finding 14. <i>Procedures to Ensure Contract Files Are Complete Need Improvement</i> on page 40.
	9b. Ensure procurement files are adequately stored in a manner that facilitates retrieval, and that files are archived and destroyed according with its NARA approved record schedule.	Completed January 26, 2010	Closed.

OIG 08-02 Performance Audit of Procurement and Contract Management

Prior Finding	Prior Recommendation	Management Status August 2010	2010 Follow-up Audit Testing NFR
	9c. Take the necessary steps to maintain evidence of vendors' CCR registration in the contract files.	Completed January 26, 2010	Closed.

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