

**FEDERAL ELECTION COMMISSION
OFFICE OF INSPECTOR GENERAL**



FINAL REPORT

2008 Audit of Procurement and Contract Management

September 2009

Audit Assignment No. OIG-08-02

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September 2009
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 Regis & Associates, PC to conduct a performance audit of the 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 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 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	12	\$1,216,706	\$9,686,143
Purchase Order	15	\$523,406	
Delivery Order	28	\$2,364,739	
Contracts	34	\$18,677,876	\$26,898,844
Interagency Agreement	1	\$4,850,000	\$14,951,314
Totals	90	\$27,632,726²	\$51,536,304²

The results of our audit testing show that, overall, the agency may not have received goods and services within the contract terms, and that the Office of Procurement and Contract Management (Procurement Office) did not adequately document and assess its acquisition processes, procedures, and management controls. Our audit of the FEC's procurement and contract management activities identified nine significant issues that are preventing the Procurement Office from achieving compliant and effective functions. Specifically, improvement is needed in the following areas: acquisition planning and pre-award administration; process for approving procurement awards; oversight and monitoring of procurement activities; contracting data reported in the Federal Procurement Data System; payments on time-and-materials, and labor-hour contracts; contract close-out compliance with the Federal Acquisition Regulation (FAR); compliance with the Clinger-Cohen Act on information technology investments; blanket purchase agreement usage; and contract file

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

² Variances between sample/population dollar values and totals relates to rounding.

recordkeeping. Our nine findings and fifteen recommendations are summarized in the section titled Summary of Findings, starting on page 4.

According to FEC personnel, there have been three contracting officers in the last five years. From January 2008 through March 2008, the FEC was without a Contracting Officer. During this time, personnel were given contracting authority to act as Contracting Officers; however, they did not have the requisite training and knowledge in all aspects of the FAR. In March 2008, the FEC employed a Contracting Officer who is knowledgeable in the FAR; however, this individual was not present for several months in 2009 due to military commitments. A contractor performed the Contracting Officer's duties until the Contracting Officer returned. Availability of federal employees with the skills and qualifications necessary to manage complex procurement functions of an agency, such as the FEC remain in continual short supply. As an Executive Associate Director at Office of Management and Budget (OMB) stated, "Agencies need to hire more acquisition professionals to manage contracts better, improve upfront pricing for large procurements, conduct market research and leverage the government's buying power better." In its *2009 High Risk Series*, the Government Accountability Office (GAO) continued to include *Managing Federal Contracting More Effectively* as one of its high risks facing government. The GAO devotes a significant effort conducting audits of procurement practices in various agencies and reporting results and recommendations to be used as a resource and guidance for all federal agencies. The FEC allots between 28 to 31 percent of its total budget to the procurement and contracting for goods and services.

Since March 2008, the Procurement Office has taken steps to implement improvements in its procurement and contract functions. For example, in early 2008, the Contracting Officer instituted a formal Contracting Officer's Technical Representative training program, and has begun to update FEC's procurement policies and procedures. In order to ensure procurement and contract management functions are conducted in an efficient and effective manner for the agency, desired products and services are delivered at the lowest cost, and are not subject to fraud, waste or abuse, the FEC must devote adequate resources to addressing the findings and recommendations included in this report.

The FEC is required to perform an annual internal controls assessment as part of the Federal Managers' Financial Integrity Act (FMFIA). The requirements of FMFIA serve as an umbrella under which other reviews, evaluations and audits should be coordinated and considered to support management's assertion about the effectiveness of internal control over operations, financial reporting, and compliance with laws and regulations. Internal control assessment instructions for the agency is contained in Directive 53, *Implementation of A-123: Internal Control Review*, July 21, 2005. As part of the annual assessment process, the agency prepares and presents an *Annual Certification on Internal Controls* on the agency's overall internal control framework in the Management's Discussion and Analysis section of its Performance and Accountability Report. In 2006, the agency's financial statement auditors identified three (3) audit findings relating to procurement.

- 1) For several prominent documents meeting the criteria for approval by the Commissioners', approval was not clearly documented or provided to us for review. Other procurement transactions were not approved by all the individuals in the

approval chain or were signed by the same individual for more than one position in the approval chain.

2) For one of 45 sample items the total obligations and disbursements exceeded the contract amount. Although the disbursements were determined to be legitimate, the contract was not modified for the increase in obligation.

3) There were several incidents where documents intended to support approval of procurement and disbursement actions were not properly submitted for approval, supported or maintained by the agency.

In 2007, the financial statement auditors assessed one (1) internal control weakness as remaining unresolved and reported in a management letter that the FEC should, "Ensure documentation related to procurement and disbursement actions are properly approved and supported. Procurement policies and procedures should be enhanced to document, completely and clearly, operating procedures for the procurement cycle and should include procedures for documenting justification when exceptions are made to established procedures." No material weaknesses relating to procurement and contract management were identified by management or the financial statement auditors in the 2007 and 2008 PAR. Given the results of this performance audit, FEC management should review its control assessment processes prior to providing certifications of internal controls and compliance with laws and regulations relating to procurement, contract management, and the Federal Acquisition Regulations.

SUMMARY OF FINDINGS

Findings	Recommendations
1. Lack of Adequate Acquisition Planning and Pre-Award Administration	<p>1a. The Contracting Officer should finalize and implement policies and procedures to ensure that all aspects of procurement planning and pre-award activities are performed, as required under the FAR.</p> <p>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.</p> <p>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.</p>
2. Process for Approving Contract Awards Requires Improvement	<p>2a. The Procurement Office should fully enforce the agency's policies on required approvals before executing procurement awards and modifications.</p>
3. Lack of Adequate Oversight and Monitoring of Procurement Activities	<p>We recommend that the Procurement Office:</p> <p>3a. Ensure that 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.</p> <p>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.</p>
4. Contracting Data Reported in the Federal Procurement Data System is not Accurate	<p>4a. The FEC Procurement Office should establish processes to consistently and accurately report contract amounts in FPDS-NG.</p> <p>4b. The FEC should provide adequate oversight of FPDS-NG reporting and review the amounts reported, to ensure that they agree with contract values.</p>
5. Payments on Time-and-Materials and Labor-Hour Contracts are not Adequately Supported	<p>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.</p>
6. Contract Close-Out Procedures are not Compliant with the FAR	<p>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.</p>

Findings

Recommendations

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:
- 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.

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.

9. Contract File Recordkeeping is Incomplete

We recommend that the Procurement Office:

- 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.
- 9b. Ensure that procurement files are adequately stored in a manner that facilitates retrieval, and that files are archived and destroyed according to its NARA approved record schedule.
- 9c. Take the necessary steps to maintain evidence of vendors' CCR registration in the contract files.

BACKGROUND

The Federal Election Commission (the FEC) is an independent regulatory agency responsible for interpreting, administering, enforcing and defending the Federal Election Campaign Act (the FECA). As part of this task, the FEC promulgates regulations implementing the FECA Act's 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 Act. 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 (OIG), each headed by a statutory officer, and the Chief Financial Officer (CFO). 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 2008, the FEC was provided 375 full time equivalent employees and a budget of \$59.2 million, of which approximately 67.3% was budgeted for staff salaries and benefits, 7.4% for office space rental, and 25.3% 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 \$13 million to \$17 million annually, through contracts, delivery orders, purchase orders, blanket purchase agreements and interagency agreements, which represents approximately 30 percent of its 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.

The Office of Inspector General (OIG) of the FEC contracted with Regis & Associates, PC to conduct a performance audit of the procurement and contract management policies and procedures used by the FEC to determine whether the FEC is complying with the policies and procedures, and applicable federal acquisition laws and regulations.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of the audit were to determine whether the Procurement Office has met the following:

Objective 1 - Procured supplies and services in an efficient and effective manner, and in compliance with applicable laws, regulations, policies, and procedures;

Objective 2 - Developed internal Bulletins, Directives, policies and procedures that comply with applicable laws and regulations whether they and are used to direct procurement activities throughout the Commission;

Objective 3 - Reported accurately, its procurement statistics to the General Services Administration;

Objective 4 - Received the goods and services in accordance with contract terms;

Objective 5 - Used procurement information to manage procurement operations effectively and efficiently;

Objective 6 - Closed contracts in a timely manner;

Objective 7 - Established effective internal controls with regard to procurement and contract monitoring; and,

Objective 8 - Documented and assessed its acquisition processes, procedures, and management controls in accordance with the Federal Manager's Financial Integrity Act.

The scope of the audit included a review of purchase instruments (contracts, purchase orders, blanket purchase agreements, delivery orders) awarded and executed by the Procurement Office in fiscal years 2006-2008. The sample included a number of pre-selected, high risk instruments, all contracts greater than \$500,000, one or more instruments from each agency division, where possible, and a number of random and judgmental items to complete the initial sample level of seventy-nine (79) procurement instruments. We also selected eleven (11) sample items from procurements initiated since March 2008, since the current contracting officer was hired by the agency. Our professional services were 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.

We conducted the audit from October, 2008 through July, 2009, 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 included a total of ninety (90) sample items, which include thirty-four (34) contracts, twenty-eight (28) delivery orders, fifteen (15) purchase orders, twelve (12) blanket purchase agreements, and one (1) interagency agreement.

The audit included a review of approximately \$27.6 million of various types of procurement instruments (e.g. contracts, purchase orders, blanket purchase agreements, and specified interagency agreements) awarded/executed by the Procurement and Contracting Office in fiscal years 2006 through 2008. The following table illustrates the total number and dollar values³ of procurement instruments tested, compared to the population available for testing.

Procurement Type	Items Sampled	Total Sample Dollar Values	Population Dollar Values
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Interagency Agreement	1	\$4,850,000	\$14,951,314
Totals	90	\$27,632,726⁴	\$51,536,304⁴

Additional procedures were conducted by the Office of Inspector General (OIG) on ten (10) of the ninety (90) sample items to analyze the timing of available funding, presentment and payment of vendor invoices and requests for contract modifications by the Contracting Officer's Technical Representative (COTR). We reviewed the OIG's methodology and tested the results on a sample basis. We agreed that the OIG's methodology was reasonable, and we relied on the OIG's results in the findings included within this report.

³ These values represent the obligations recorded in FEC financial systems as provided by agency staff. Regis & Associates, PC did not audit the values and did not perform additional procedures to determine whether the values were materially correct.

⁴ Variances between sample/population dollar values and totals relates to rounding.

FINDINGS AND RECOMMENDATIONS

1. Lack of Adequate Acquisition Planning and Pre-Award Administration

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*. Our review of the acquisition planning and pre-award procedures and processes at the Federal Election Commission (FEC) noted the following:

A. Formal Acquisition Plans were not Documented

Written acquisition plans were not documented to facilitate attainment of acquisition objectives. We noted no acquisition plans in the procurement files, but specifically, we noted three large contracts, included in our sample, valued at approximately \$12 million, did not have written acquisition plans. These contracts are listed in the table below.

Project Title	Services Description	Amount Obligated
Data Conversion and Collection	Services to convert data from documents filed by committees required to disclose federal campaign activity	\$5,101,664
1032 Off-load Project	Services to upgrade FEC's legacy Disclosure system to a web-based platform	\$4,457,382
Disaster Recovery Plan (DRP) and Continuity of Operations (COOP)	Services to migrate FEC's existing DRP to a COOP supported by a comprehensive and high quality DRP	\$2,315,895

We also noted that multiple bids, as required by the FAR, were not obtained for 11 of the 15 purchase orders; 13 of the 28 delivery orders; and 6 of 12 blanket purchase agreements included in our sample. We tested 90 sample items, of which 34 were contracts or delivery orders tested as contracts, due to the complexity of the procurement. Of the 34 contracts tested, the FEC procured 25 under sole source arrangements. While the majority of the sole source procurements had justification and approval documentation included in the files, many of the justifications lacked key elements required by the FAR.

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.

For the three contracts listed on the previous page, due to the extended service delivery period, technical complexity, and changing technological options for service solutions, a procurement plan should have been prepared and updated throughout the procurement lifecycle to ensure that the agency met its needs in the most effective, economical and timely manner.

B. Pre-Award Administration Requires Improvement

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 pre-award administration at the FEC noted the following:

1) Development of Statements of Work

Generally, we found that statements of work were prepared as part of acquisition planning; however, we identified three procurement actions, two purchase orders and one contract that were not supported by statements of work, as required under FAR Subpart 8.405-2, *Ordering Procedures for Services Requiring a Statement of Work*. For example, in procurements 6AD0402 and 7AD001, which were labor hour

contracts for Budget Analyst services, statements of work were not prepared. Our review also noted that statements of work were prepared mostly as part of acquisition planning; however, in many instances critical elements were lacking in those statements of work, such as reasonable performance standards and metrics. Also, deliverables were not always defined in the statements of work. For example, in a procurement valued at \$420,680, the statement of work included tasks for the services of a Senior Design Developer to develop a new data entry access system, provide database administrator support, and Crystal Report expertise to augment the FEC's in-house IT staff in the development of 1032 offload reports. The required deliverables described in the statement of work were weekly status reports and levels of effort to be reported in hours. The statement of work, however, should have also included deliverables that documented the requirements, testing plan, and testing results for the system developed. In another procurement valued at \$628,720, the statement of work indicated that the services were for development and maintenance tasks, and the scope of work included four tasks related to converting legacy processes and systems to FEC's newly developed systems. However, technical requirements for the services to be performed were not included in the statement of work. In addition, the deliverables included a design document, but testing was not required to ensure that the systems converted were operating as intended.

Further, we noted deficiencies in some statements of work relating to the failure to include appropriate contract clauses. Clauses are important elements of contracting because they define, and in some cases limit, contract terms and allow for contract revision and cancellation. For example, we identified four (4) out of the thirty-four (34) contract files reviewed that did not include certain clauses, as required under the FAR. Specifically, we noted the following:

- Contract numbers 6AC0156 and 7AC0156 did not include FAR Clause 52.232-18, *Availability of Funds*, to indicate that the pricing was contingent on the availability of funds.
- For contract number 6AC0147, the contract modifications were properly documented; however, the original contract and modifications did not include Clause 52.243-3, *Changes – Time and Material or Labor Hours*, for modifying labor hour contracts. We also noted that the original purchase request was partially obligated and funded as a result of a continuing resolution; however, the original contract did not include the Clause 52.232.18, *Availability of Funds*, as prescribed in FAR Section 32.705-1 (a), *Clauses for contracting in advance of funds*.
- A single contract with multiple modifications spanning five years, under contract numbers 4AC058, 5AC058, 6AC058, 7AC058, 08C058, and 08C058X was extended multiple times, but did not include Clause 52.217-8, *Option to Extend Services*, as prescribed in FAR Section 17.208(f), *Solicitation provisions and contract clauses*, nor did the contract terms include options. We found that the performance period was extended multiple times, rather than specifying option periods or re-competing the requirement.

- Blanket purchase agreement numbers 6AB0014 and 7AB0014 did not include documentation evidencing how the FEC determined whether to lease or purchase equipment in accordance with FAR Subpart 7.4, *Equipment Lease or Purchase*. In addition, the proposal provided the cost of the lease payments, but did not address the purchase price. Likewise, the contract did not include information to document the purchase price, or provide a formula showing how the purchase price would be established at the time of purchase. Lastly, the contract did not include Clause 52.207-5, *Option to Purchase Equipment*.

2) **Market Research**

We identified eleven (11) instances of noncompliance with requirements under FAR Part 10, *Market Research*, related to market research. In accordance with FAR Part 10, 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 before: (1) developing new requirements, (2) soliciting offers for acquisitions in excess of the simplified acquisition threshold and (3) soliciting offers with an estimated value less than the simplified acquisition threshold when adequate information is not available. Specifically, we identified one (1) blanket purchase agreement, six (6) purchase orders, and four (4) contract procurements where market research was not conducted. Conducting adequate market research is essential to ensuring that procurements are executed in an efficient manner and for the best value.

3) **Full and Open Competition**

As a part of our review, the Office of the Inspector General requested that we include a small sample of active procurements initiated by the current Contracting Officer (CO). We reviewed a total of eleven procurements and noted that the justification and approval for one of the two contracts sole sourced was not properly prepared.

According to the FAR 7.102, *Acquisition Plans - Policy*, (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)).

4) **Debarment Review Not Documented**

Our review of policies and procedures, and discussions with procurement office management, indicated that FEC has not established procedures to ensure that it does not solicit offers from, award contracts to, or consent to subcontracts with contractors whose names are on the Excluded Parties Listing System (EPLS) or debarment list. Management of the Procurement Office stated that the debarment list is reviewed on a daily basis, but the review is not documented. As a result, we were unable to verify whether FEC reviewed the debarment list for vendors included in our sample to ensure that the FEC vendors were not debarred from conducting business with the Government.

5) **Lack of Guideline on, and Documentation of, Technical Evaluation and Price Reasonableness**

The FEC's policies and procedures documented in the Commission's Bulletins 2004-03, *FEC Contracting Procedures*, and 2004-04, *FEC Procurement Procedures*, indicate that the Contracting Officer, in consultation with the requesting office program official, is responsible for performing the following tasks:

- Compiling an Evaluation Panel of staff who are responsible for evaluating proposals/bids based upon the source selection plan for the acquisition and the criteria contained in the solicitation,
- Setting the competitive range and discussing the proposals with offerors, and
- Determining the responsibility of potential awardee.

During the review, we noted the following three areas of weaknesses with respect to technical evaluation and price comparison:

a. Guidelines Missing in the Draft Policy Regarding When Evaluations are Required

Currently, it is FEC's policy that the Contracting Officer must send a Task Order Contract Award Recommendation Memorandum to the Commission for approval for all service contracts valued over \$100,000 that are procured using the full and open competition or awarded using task order contracting methods. These services include software development or operational services that are *not* included in a Commission-approved FEC Management Plan. The memorandum is to be prepared by the Contracting Officer and forwarded through the requesting office, to the Administrative Officer, Deputy Staff Director for Management, and the Staff Director, for review and approval. Finally, the recommendation is sent to the Commission for approval. The memo provides the name of the proposed vendor and a brief description of the overall task to be performed by the vendor, funding availability, a brief synopsis of the contracting process, and the criteria that was used to select the proposed vendor. These include: 1) project objectives,

2) procurement timeline, 3) proposal scores, 4) summary of technical proposal evaluation points for each offeror, 5) summary of the past performance points for each offeror, 6) past performance evaluation factor, 7) price proposals, 8) scoring summary and 9) final recommendation of proposed vendor for award of the task order contract.

The Contracting Officer is in the process of revising FEC's policies and procedures for procurement management. Although the revised documents have not been fully implemented, we noted that the revised policies and procedures do not include guidelines establishing when price reasonableness evaluations are required to be performed. The guidance is necessary to ensure adequate data is obtained to support the Award Recommendation Memorandum to the Commission.

b. Evaluation Documentation Not Maintained

As a part of our review, we selected a supplemental sample of eleven (11) procurements executed in fiscal year 2008, under the current policies and procedures implemented since March 2008, to determine whether improvements had occurred in procurement processes. We identified one delivery order with a base year value of \$142,889, and options totaling \$2,098,803, for performance through 2013 that did not include documentation of the evaluation conducted to select the vendor. The Contracting Officer's Technical Representative for the contract provided an approval memorandum, which indicated that technical approval was given, and that the vendor was the most suitable to provide the needed services. However, a formal evaluation process documenting the evaluation tool used, processes performed, and the basis for decisions reached was not performed. According to the Contracting Officer's Technical Representative, several vendors were considered for the procurement, and several meetings were held by the selection team, but the assessment and decision was not documented.

c. Price Reasonableness Not Documented

Based on our review of the contract files, price comparison and technical requirements were not prepared for three (3) of the thirty-four (34) contracts reviewed. Further, we noted that three contracts and one delivery order had no documentation to support the determination of price reasonableness.

Failure to perform price reasonableness assessments may have led to increased costs for the FEC. For example, in a firm-fixed-price contract for services to convert campaign reporting data to electronic format, the contract was priced, based on an estimated number of pages, at a per page rate. We questioned whether the firm-fixed-pricing method was the most advantageous to the government. According to the assigned Contracting Officer's Technical Representative, she recommended that the contract be priced at a per page

rate, based on the actual number of pages converted. However, when the Contracting Officer's Technical Representative received a copy of the final contract, the former Contracting Officer had priced it based on estimated number of pages converted, at a firm-fixed-price. We judgmentally selected the batch reports for the month of August 2008, to evaluate the difference between the amount paid under the firm-fixed-price contract, and the cost of converting the pages, based on actual pages converted, at the per page rate quoted in the contract terms. Based on our analysis, it appears that FEC might have saved approximately \$10,861, for the month of August, had the contract been negotiated and paid at the per page rate quoted.⁵ The Contracting Officer's Technical Representative indicated that the contract was being renegotiated, and that an evaluation would be conducted in order to determine the best contract value.

6) Lack of Recommendation Memorandum

In our review of thirty-four (34) contracts included in our sample, we identified five (5) contract actions where there was no evidence in the contract file that a recommendation memo was sent to the Commission for approval, and signed by the Staff Director, as required in the Commission's Bulletin 2004-03A, *FEC Contracting Procedures*. According to the Bulletin, all contracts and task orders valued at, or more than \$100,000 are subject to "full and open" competition and the Contracting Officer must send a Contract Award Recommendation Memorandum to the Commission for approval. The recommendation memo should be signed by the Contracting Officer and forwarded through the Administrative Officer, Deputy Staff Director for Management, and the Staff Director, for review and approval. The memorandum should provide the name of the proposed vendor, and a brief description of the overall services to be performed by the vendor, funding availability, and a brief synopsis of the contracting process and the criteria that was used to select the proposed vendor, including:

- 1) Project Objectives,
- 2) Procurement Timeline,
- 3) Proposal Scores,
- 4) Summary of Technical Proposal evaluation points for each offeror,
- 5) Summary of the past performance points for each offeror,
- 6) Past Performance Evaluation Factor,
- 7) Price Proposals,
- 8) Scoring Summary and
- 9) Final recommendation of proposed vendor for award of the task order contract.

According to FEC personnel, there have been three contracting officers in the last five years. From January 2008 through March 2008, the FEC was without a Contracting Officer. During this time, personnel were given contracting authority to act as Contracting Officers;

⁵ Assumes that per page rate would remain fixed despite fluctuations in page volume each month

however, they did not have the requisite training and knowledge in all aspects of the FAR. In March 2008, the FEC employed a Contracting Officer who is knowledgeable in the FAR; however, this individual was not present for several months in 2009 due to military commitments. A contractor performed the Contracting Officer's duties until the Contracting Officer returned. The conditions noted above resulted from a lack of enforcement of approval processes, and appropriate monitoring of contracting and procurement activities by FEC management. Compliance enforcement and monitoring may have been impacted, in part, by the frequent changes in procurement staff.

As a result of the conditions noted above, we could not determine whether best values were obtained for the FEC, on procured goods and services because:

- contracts were awarded without adequate competition, thereby decreasing the likelihood that the agency achieved value for money;
- statements of work were not adequately developed, thereby decreasing the likelihood that the agency received goods and services to meet business needs;
- deliverables were not tied to performance metrics, thereby decreasing the ability to monitor service delivery; and
- the FEC did not comply with federal laws and regulations with respect to planning, performing, assessing and recording procurement actions and decisions.

Recommendations

- 1a. The Contracting Officer should finalize and implement policies and procedures to ensure that all aspects of procurement planning and pre-award activities are performed, as required under the FAR.
- 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.
- 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.

Management's Response

- 1a. Management concurs that acquisition planning is important to ensure effective procurement management. Based on the information provided in the audit report, Management concurs that the documentation in the contract files can be improved. Management does not concur that there are not sufficient procurement policies implemented. In October 2008, the Office of the Chief Financial Officer (OCFO) issued procurement policies and plans to issue a procurement directive in FY 2010.

- 1b. Management concurs. The OCFO continues to seek opportunities to improve the procurement process. As part of the internal control program, OCFO expects to establish an internal review of procurement activities.
- 1c. Management concurs. In FY 2009, OCFO is considering a pilot cross-training plan to establish procurement skills in other areas of the FEC to assist with succession planning and backup. The OCFO expects to formalize the program in FY 2010.

Auditor's Comment

- 1a. Management's concurrence that acquisition planning is important and that improvement is needed in the documentation maintained in the contract files is an indication that the policies have not been fully implemented despite Management's non-concurrence. Nevertheless, the agency's planned actions are responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.
- 1b. Agency's planned actions are responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.
- 1c. Agency's planned actions are responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.

2. Process for Approving Contract Awards Requires Improvement

The FEC's policies and procedures for contracts awarded during our review period are defined in the Commission's Bulletins 2004-03A, *FEC Contracting Procedures*, and 2004-04A, *FEC Procurement Procedures*, and Procurement Policy and Procedures (ProcPros) effective June 12, 2008. We noted that FEC's award process was generally followed during this period; however, the number of instances of noncompliance with respect to obtaining required approvals placed the Commission at the risk of executing contracts that had not been authorized, or more importantly, for which funding was not available. The results of our testing indicated that approvals were lacking for over 40% of the contracts executed. For example, we noted that for 14 of the 34 contracts, the purchase requests were not properly approved. This includes three contracts that lacked the required Budget Office approval for Information Technology related contracts, valued at \$2,500 or above, or contracts executed while under a Continuing Resolution. We also noted that fifteen (15) contract files did not contain the funding request memos, and fifteen (15) contract files did not contain the obligation memos in accordance with the requirements of the Commission's Bulletin.

Our review of eleven procurement actions executed by the current Contracting Officer noted that for two of the eleven procurements reviewed, the FEC's process for obtaining approvals was not followed. In an Information Technology related contract dated September 12, 2008, and valued at \$277,506, we requested and obtained a printout of the procurement request. We noted that the individual that electronically approved the procurement action did not have

the proper authority for approval, because that individual was not the Director of Budget. Under FEC's procurement policy, the Director of Budget is to approve all procurement actions over \$10,000.

We noted the following as an example of contract award processing weaknesses for an Information Technology Division (ITD) service contract spanning two years. The contract 6AC0200 and 7AC0200 had obligation values for the two fiscal years of \$1,246,466 and \$289,424, respectively. The initial contract, 6AC0200, was executed on August 14, 2006, but the funding and obligation memos were not approved until September 29, 2006, six weeks later. We also noted that one of the modifications was not supported by a purchase requisition. In November 2006, the vendor submitted invoices totaling \$289,424, which were rejected by the Finance Office due to lack of funding availability on the contract. The contract file documentation indicated that in addition to the unfunded obligation of \$182,524.74, a recording error totaling \$106,899.24 was made on the contract. We also noted that a former Chief Financial Officer instructed personnel to increase obligations by \$182,524.74, and backdate the obligation to ensure consistency with the obligation memo. Although the obligation memo for \$182,524.74 was located in the payment file, this document was not in the contract file maintained by the Procurement Office. The exceptions noted for this procurement highlight a series of processing errors that should not have occurred if the FEC's documented procedures had been followed.

The conditions noted above were the result of a lack of proper oversight by the Procurement Office to enforce the internal policies and procedures, and laws and regulations established in the FAR. Generally, when purchase requests are not properly approved, the FEC is at risk of not having funds available when payment is required. Approvals are a necessary control to reduce the risk of fraud, waste and abuse. Furthermore, on-going projects cannot be managed as efficiently as a result of delays in paying vendor invoices. The FEC is placed at risk of work stoppages, and the vendor at risk of delayed or non-payment. As a result of non-compliance with policies and procedures, there is increased risk of fraud and misuse of agency funds reserved for procurement activities.

Recommendation

- 2a. The Contracting Officer should fully enforce the agency's policies on required approvals before executing procurement awards and modifications.

Management's Response

- 2a. Management concurs. As mentioned in Recommendation #1, the OCFO has established a more formal procurement process as outlined by the current procurement policy. Additionally, since April 2008, procurement actions are now processed electronically through Comprizon. This change has significantly reduced financial and budget errors. The OCFO staff also performs reconciliation between Comprizon and Pegasys to ensure timely processing of financial documents.

Auditor's Comment

- 2a. The agency's planned action is responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.

3. Lack of Adequate Oversight and Monitoring of Procurement Activities

As part of the testing conducted, we reviewed 90 procurement files, on a sample basis, to determine whether documentation was maintained as evidence of active and adequate contract monitoring activities. Specifically, we reviewed contract files and other records maintained by Contracting Officers, Contracting Officer's Technical Representatives (COTRs) and contract points of contact to determine whether documentation was maintained that included a description of contract status, contract modifications and justification, funding, and contractor or vendor performance evaluations. During our review, we noted that FEC did not conduct adequate oversight and monitoring of contract activities. This was in large part due to the manner in which the agency planned for, and implemented procurement oversight activity. We noted the following weaknesses in COTR oversight and monitoring activities, which are described more fully in the following subsections of this finding:

- COTRs did not have the necessary training and skills to adequately monitor service delivery. Formal training required under the FAR was either outdated, or had not been obtained;
- COTR designation letters were either not issued, or were not documented in the contract files;
- Contract monitoring activity was not effective;
- COTRs did not have standard processes or tools to document and monitor service delivery. Where more complex monitoring tools were used to monitor service delivery, they were not used by all COTRs of a business area, nor for all procurement actions, as designed by the FEC; and
- There was not evidence to support that vendor technical performance was monitored and evaluated.

COTR Training Requirements were not Monitored and Enforced

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. Twenty-two of the required 40 hours of training must cover the essential core COTR competencies. The FEC recently conducted training for 15 designated COTRs who required training. According to the Procurement Director, the intent is to have a "core" group of COTRs complete the full 40-hours of training by December 31, 2009. In addition, a COTR Program is being established, which was planned to be finalized and issued prior to July 1, 2009.

COTR Designations were not Documented

The Commission Bulletins require that the Contracting Officer prepare a memo to the designated Requesting Office program official, confirming their appointment as the COTR. We noted that fourteen (14) of the thirty-four (34) contract files did not include designation memos for COTRs, in accordance with the Commission's Bulletins. The prerequisite for COTR designation is adequate training and proper certification. Without formal COTR designation, the FEC is at risk of deficient monitoring and oversight of procurement activities.

COTR Monitoring Activity and Tools were not Effective

The Defense Contract Audit Agency Guidelines, best practice guidance for procurement in the federal government, stipulates that as a technical representative of the Contracting Officer, the COTR is responsible for administration of the contract/task order, and for assuring compliance by the contractor with the requirements of the contract/task order. The COTR's responsibilities include initiating modifications for changes of work requirements or funding, monitoring quality of work and approving deliverables, monitoring funding and costs, approving invoices, and evaluating contractor performance.

During our review, we noted that contracts had large numbers of modifications increasing funding and extending the period of performance. In many cases, funding and performance extensions were requested and processed by the COTR at the request of the Finance Division in order to process a vendor invoice for payment. The need to modify procurements and provide additional funding should be based on changes in procurement planning and active monitoring of procurement funding and expenses to date, and not by the presentment of an invoice by the vendor.

Our detailed review of the payment activity of ten procurements noted that a total of fifty-six (56) modifications were issued on six of the instruments, primarily as a result of inadequate funding of the contracts. In addition, there were thirty-five (35) instances of modifications being issued as a result of invoices submitted by contractors for services already rendered. These modifications increased the procurement values from \$187,054 to \$2,100,261. As a result of deficient funding, we noted repeated instances where the FEC failed to pay vendors on time, in accordance with the Prompt Payment Act, due to failure to request funding prior to services being delivered. In many cases, interest was charged due to the late payments by the FEC. According to FAR 43.102, (a) Only contracting officers acting within the scope of their authority are empowered to execute contract modifications on behalf of the government and other Government personnel shall not; (2) act in a manner as to cause the contractor to believe they have the authority to bind the Government; or (3) Direct or encourage the contractor to perform work that should be the subject of a contract modification. The repeated instances of vendors providing services and presenting invoices for payment prior to the COTR requests for funding indicate that the COTRs breached the FAR.

In addition, we surveyed the COTRs to determine the processes and tools used to monitor contracts assigned to those employees. Based on the COTRs' responses to the survey questions, we noted that the FEC did not have standard processes and tools in place to

effectively monitor the progress of contracts. In addition, the Procurement Office does not provide guidance to COTRs prior to award that describes monitoring activities, tools and processes that should be used to ensure effective oversight. For example, one COTR responded that spreadsheets, emails, and timesheets were used to track progress, but it was not clear whether those tools were appropriate for the procurement being monitored. According to the Information Technology Division's (ITD) COTR, weekly status reports and meetings were the methods used to monitor the progress of IT contracts. Procurements initiated and managed by the ITD are typically complex, high dollar value, and long-term projects. It is likely that status reports and meetings would not be sufficient tools or processes to monitor those procurement activities.

In interviews with the ITD COTR, we learned that that ITD also maintains a database, called the Visual Source Safe (VSS) system. The VSS system is a tool that allows ITD COTRs to store contracted service deliverables from the various ITD vendors. Project work plans are also maintained in the VSS system, which allows ITD COTRs to track project milestones; however, we noted that the VSS system database was not being used by all project managers responsible for providing contract oversight. In addition, there is no division policy that requires ITD personnel to use the VSS system for tracking and maintaining project deliverables.

We also noted that the ITD COTR was assigned the responsibility for monitoring twenty of the twenty-seven ITD procurements. Given the complexity of ITD procurement activities, it is not practical that one individual have monitoring responsibility for that many projects. The Contracting Officer has recently taken steps to redistribute COTR responsibility more evenly among staff within the ITD.

Monitoring Technical Performance

We surveyed COTRs to determine whether contractor performance was evaluated after the completion of tasks and receipt of a final invoice. The eight COTRs that responded to our survey stated that evaluations were not required after contract tasks had been completed. Also, we noted that there was no performance evaluation included in any of the 90 sample procurement files reviewed. Yet, in the case of the ITD contracts, vendors were repeatedly given sole source contracts for follow-on tasks, without formal evaluations of the prior services. We reviewed 34 contracts, 27 of which involved tasks related to ITD projects for systems development and maintenance. According to the Deputy Chief Information Officer, a testing team was used to verify that the technical performance requirements were met for systems or components delivered; however, the COTR did not provide results of tests, or documentation to support that the tests were performed, as indicated.

FAR Subpart 42.302 - *Contract administration functions*, permits the contracting officer to delegate the following functions to the COTR:

- Review and approve or disapprove the contractor's requests for payments under the progress payments or performance-based payments clauses.

- Make payments on assigned contracts when prescribed in agency acquisition regulations.
- Manage special bank accounts.
- Ensure timely notification by the contractor of any anticipated over-run or under-run of the estimated cost under cost-reimbursement contracts.

FAR 43.105 - *Availability of Funds*, also states that:

(a) The contracting officer shall not execute a contract modification that causes or will cause an increase in funds without having first obtained a certification of fund availability, except for modifications to contracts that:

- (1) Are conditioned on availability of funds (FAR [32.703-2](#), *Contracts conditioned upon availability of funds*); or
- (2) Contain a limitation of cost or funds clause (FAR [32.704](#), *Limitation of cost or funds*).

Pursuant to *OMB Circular A-123, Management's accountability and control*, "within the organizational structure, management must clearly: define areas of authority and responsibility; appropriately delegate the authority and responsibility throughout the agency; establish a suitable hierarchy for reporting; support appropriate human capital policies for hiring, training, evaluating, counseling, advancing, compensating and disciplining personnel; and uphold the need for personnel to possess and maintain the proper knowledge and skills to perform their assigned duties as well as understand the importance of maintaining effective internal control within the organization." Also, the Office of Federal Procurement Policy Letter 05-01 states that the agency's Chief Acquisition Officer or equivalent "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."

The conditions noted above were the result of COTRs and contract points of contact not being adequately trained, and not provided written responsibilities and functions required to accomplish the objectives of their delegated responsibilities. Also, the COTRs and contract points of contact were not monitored by the Contracting Officer to ensure that they performed their responsibilities, as required under FAR.

As a result of the conditions noted above, contracts worth several million dollars were not adequately monitored, which resulted in inappropriate use of contract modifications to extend periods of performance and contract values. Contractors were authorized to proceed on contracts, without proper review of their performance by the Contracting Officer. Also, COTRs and contract points of contact were not effective in their contract monitoring activities, which resulted in an increased risk that procurement objectives were not being met.

Recommendations

We recommend that the FEC Procurement Office:

- 3a. Ensure that 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.
- 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.

Management's Response

- 3a. Management concurs. Management believes a number of positive steps have been taken proactively by FEC to address this issue. In FY 2009, the OCFO sponsored COTR training and was able to bring 11 COTRs into training compliance. Additionally, the Finance Committee approved additional funds to continue the training initiative. Currently, further COTR training is scheduled for the first quarter of FY 2010. Also, since the beginning of FY 2009, when a COTR is officially designated, the Procurement Division issues COTR letters, detailing the responsibilities of the COTR and where to go for assistance.
- 3b. Management concurs. Again, the OCFO continues to improve the oversight of all aspects of the procurement processes.

Auditor's Comment

With respect to recommendations 3a and 3b, the agency's planned actions are responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendations.

4. Contracting Data Reported in the Federal Procurement Data System is not Accurate

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

During our review, we noted that the FEC contracting data reported in the Federal Procurement Data System (FPDS) was not accurate. For procurements included in our review sample, we noted the following exceptions:

- Under-reporting, due to failure to input accurate obligation data in the FPDS-NG;
- Failure to report all modifications, including zero dollar modifications;
- Over-reporting, due to input of the entire award amount (maximum that may be spent over the term of contract) versus each obligation as incurred, with the supporting data included in FPDS-NG of maximum award, and award-to-date values;
- Over-reporting, due to duplication of data; the input of the initial or base award when contract was originally signed, and a subsequent input of total award to date;
- Over-reporting, due to failure to process a reduction for de-obligations for items such as BPAs, where the actual obligation is likely to be more than the annual spending. BPAs typically require an adjustment at year end for the obligated versus actual expenditure variance;
- Over-reporting, due to failure to record cancelled contracts with remaining obligated balances, or de-obligation from those with remaining balances, such as time-and-material type contracts;
- Incorrect application of funds to the respective fiscal years; and
- Renaming or renumbering contracts for fiscal years, based on FEC's internal financial system reporting (e.g. 06C#####, 07C#####, 08C#####), when in fact, the base award and option years are tied to the contract number from which it originated, but the contract number is updated each fiscal year due to limitations in prior FEC financial reporting systems.

In October 2007, the FEC began using ComprizonSuite to record and manage its procurement activities. The system has a feature that supports mandatory reporting to FPDS-NG if a system setting is enabled. Currently, the FEC Procurement Office has enabled the mandatory reporting feature, but we noted that the system control can be disabled at any time. For the eleven (11) items included in the supplemental sample, all were accurately reported in FPDS-NG, due to the fact that all of those procurements originated in ComprizonSuite, and the system control was enabled. We also noted, however, that older procurements initiated prior to ComprizonSuite implementation continued to have reporting irregularities. The older procurements were not migrated to the ComprizonSuite system and, therefore, were not initially or subsequently subject to mandatory reporting. Errors were noted with FPDS-NG reporting for those older procurements that required modification in 2008. In total, for the 87 procurements reviewed that were required to be reported, there was approximately \$12.9 million in absolute dollar value errors⁶ relating to over or under-

⁶ Errors were reported as absolute or positive values. Errors for under reporting and over reporting were not netted or offset against each other.

reporting values associated with \$18.7 million in reportable obligations. The error rate is approximately 69 percent.

FAR Subpart 4.606(a) *Reporting data* requires agencies to report to FPDS-NG, contract actions over the micro-purchase threshold, regardless of the solicitation process used. Agencies must report any modification to these contract actions that change previously reported contract action data, regardless of dollar value.

The condition noted above was due to the lack of a process to consistently report contract amounts in FPDS-NG, and review of the amounts reported to ensure that they agree with procurement obligation values.

Failure to maintain records on critical contract financial and performance data increases the risk of inaccurate reporting for both internal and external users, such as the Commissioners, management, congressional representatives and the public. When accurate contract data and other necessary contract information is not maintained, there is an increased risk of non-compliance with governing regulations, and non-accountability for federal resources.

Recommendations

- 4a. The FEC Procurement Office should establish processes to consistently and accurately report contract amounts in FPDS-NG.
- 4b. The FEC should provide adequate oversight of FPDS-NG reporting and review the amounts reported, to ensure that they agree with contract values.

Management's Response

- 4a. Management concurs. The Procurement Division has already initiated steps to ensure that FEC complies with the FPDS reporting requirements. As part of the current procurement policy, the OCFO has outlined the process to ensure this is accomplished.
- 4b. Management concurs. See the response for #4a.

Auditor's Comment

With respect to recommendations 4a and 4b, the agency's planned actions are responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendations.

5. Payments on Time-and-Materials, and Labor-Hour Contracts, were not Adequately Supported

Our audit sample included twenty-three (23) Time-and-Materials and Labor-Hour contracts with payments totaling approximately \$4.1 million. We reviewed the procurement files to determine whether payments on these contracts were properly supported by timesheets and approved by the COTR assigned to the contract. We requested that FEC management provide the invoices, timesheets, resumes of contractors' personnel charged to the contracts, and other necessary supporting documentation. We found that the FEC COTRs reviewed vendor invoices and approved payments, totaling \$2.6 million, for twenty-one (21) contracts. The vendors, however, did not provide the employee timesheets to support the amounts invoiced for services for seventeen of the twenty-one (21) contracts.

Pursuant to FAR 52.232-7, *Payments under Time-and-Materials, and Labor-Hour contracts*, the regulation states that 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 condition noted above was the result of prior Contracting Officers and COTRs not having a full understanding of the requirements of FAR, as it relates to documentation needed to support payments on Time-and-Materials, and Labor-Hour Contracts. It was also the result of not adequately communicating the FAR requirements for payment on these types of contracts to the COTRs and Task Monitors.

As a result of the condition noted above, improper payments of approximately \$2.6 million were made to contractors, due to a lack of documentation to support the payments. Therefore, the FEC was not in compliance with federal laws and regulations with respect to payment approvals on time-and-materials and labor-hour contracts.

Recommendation

- 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. This may include instruction on performing the following:
- Detailed analysis of hours billed, compared to an expected level of effort for the period;
 - Analysis of project milestone progress, compared to the level of effort expended to date;

- Analysis of vendor staff assigned and invoiced, compared to those proposed; and
- Billing rates and employee grades/titles, compared to contract terms.

Management's Response

- 5a. Management concurs that it is important to ensure the appropriate use of Time-and-Materials and Labor-Hours Contracts. Management notes that GSA Schedule provides for the ability for FEC to contract for labor-hour contracts which supplement FEC government staff as needed and the agency should take advantage of this contract option as appropriate. Management also notes that Time-and-Materials contracts are unusual for FEC.

Auditor's Comment

- 5a. The agency's planned actions are responsive to the audit issue identified and, when fully implemented, should satisfy the intent of the audit recommendation. We do not dispute that agencies may contract for services using labor-hour or time-and-materials contracts; however, the recommendation is that management provides training and oversight to ensure compliance with the FAR when such procurement instruments are used.

6. Contract Close-out Procedures are not Compliant with the FAR

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. 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. During our review, we noted that FEC currently has no formal contract close-out process or documented procedures. We identified sixteen (16) contracts within our sample that were subject to close-out; however, we noted that the contracts were not closed out as required by FAR.

Based on our review, we also noted that of the invoices and receiving reports provided by the Finance Office, approximately 16% of the final receiving reports were not marked as final by the Program Office or Finance Office. The fact that the receiving reports were not marked final, and the Finance Office is not made aware that an invoice is the final invoice payable, creates a risk that subsequent requests for payment may be presented by the vendor and made by the FEC in error. Furthermore, receipt of a final invoice also serves as a reminder that the contract file can, and should be closed, after the final invoice has been paid; and other formal close-out procedures should be completed.

The Director of Procurement indicated that FEC did not institute formal contract close-out procedures for contracts, primarily to accommodate this procurement and contract management audit. The Director of Procurement also indicated that the reason for this action

was to ensure that all needed files were available for the audit. We find that the condition noted above was the result of inadequate internal control over the contract administration process. Specifically, 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.

As a result of this condition, there is increased 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 presents the opportunity for fraud, waste and abuse of the remaining funds that may be subject to inappropriate use.

Recommendation

- 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.

Management's Response

- 6a. Management concurs that FEC can improve on executing its contract close-out procedures. As mentioned in Recommendation #1, the OCFO has established a current procurement policy that addresses contract close out and needs to ensure that the agency adheres to the procurement policy.

Auditor's Comment

- 6a. The agency's planned action is responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.

7. Lack of Adherence with Information Technology Management Reforms

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.

Currently, the FEC, through the Information Technology Division (ITD), brings various users together to ensure that the requirements of each are met for any proposed information technology acquisition. The basic role of the users is to review, modify, and suggest changes in priorities, and to provide a forum where each major division has an opportunity to ensure that technology is implemented in a manner that supports the respective divisions, as well as the FEC's mission. We noted, however, that a charter has not been established to enunciate the roles of ITD and the various users. According to the Chief Information Officer (CIO), the FEC did not institute a formal project review group. Instead, the CIO holds meetings to encourage partnership among the divisions, and maintains a spreadsheet which lists information technology projects to support the FEC's core mission and strategic plans. However, there is no prioritization of the projects indicated in the spreadsheet, and meeting minutes are not kept. It is therefore not possible to determine whether all potential users have been surveyed and provided input on strategic information technology needs and prioritization.

Due to the lack of a framework surrounding IT procurement planning and review, we noted that FEC made information technology investments, using acquisition processes that did not adhere to the federal agency responsibilities assigned under the CCA. Specifically, the FEC did not establish a proper process for maximizing the value of information technology investments, and did not adequately ensure technical soundness and viability of information technology investments through comprehensive procurement planning and risk assessment. It also did not adequately assess the value of the information technology investments in terms of its total cost of ownership, and did not properly establish the criteria for approving the individual investments.

Section 5122 of the Clinger-Cohen Act of 1996, Division E of Public Law 104-106, assigns each agency responsibility to undertake capital planning and investment control by establishing a "process for maximizing the value and assessing and managing the risks of information technology acquisitions of the executive agency," throughout the investment life cycle. Implicit in this responsibility is the need to identify the needs or conditions to be met, taking into account the possibility of conflicting requirements of the various stakeholders, such as beneficiaries or users.

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

- 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:
- 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.

Management's Response

- 7a. Management concurs. The Office of the Chief Information Officer (OCIO) has already begun to establish a formal review process for all IT decisions within the FEC.
- The FEC established a formal IT project review group in 2006 to review all Information Technology projects.
 - The FEC agrees that a formal charter should be established.
 - The board currently invites representatives from all functional areas of the agency including the CFO's office, which includes procurement and budget, and all appropriate representatives are encouraged to attend.
 - The FEC has kept a spreadsheet of decisions and actions and will improve upon documentation efforts by following the same documentation process that the Finance Committee has established.

Management notes that the particular provision of the Clinger-Cohen Act referenced in the body of the Audit Report does not apply to the FEC. Nevertheless, Management concurs that the FEC should follow best practices in relation to the Clinger-Cohen Act.

Auditor's Comment

- 7a. The agency's planned action is responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.

With respect to Management's comment that the FEC is not required to comply with Section 5122 of the Clinger-Cohen Act because of its exemption in complying with the Paperwork Reduction Act; we included additional clarifying language in the report to acknowledge Management's voluntary compliance with the "spirit and intent" of the Clinger-Cohen Act, as stated in FEC Performance and Accountability Reports.

8. Blanket Purchase Agreements were not Used in Accordance with FAR

A blanket purchase agreement (BPA) is a simplified acquisition method that government agencies utilize to meet projected, repetitive needs for supplies and services. 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. During our review, we noted several instances where BPAs were not used, as prescribed in the FAR. Specifically, we noted the following:

- New BPAs were issued each year, with a period of performance of one year, instead of placing multiple procurement actions against an established BPA. For example, in a procurement for leased equipment, two separate BPAs were written with periods of performance from October, 2005 through September, 2006; and October, 2006 through October, 2007, instead of retaining a single BPA and placing orders against it for two or more years.
- In 10 of the 12 BPAs included in our sample, there was no evidence of review of prior fiscal year's activity at the beginning of a new year. BPAs were not reviewed to determine whether they should remain active for future procurements in the next fiscal year.
- Multiple bids were not obtained for 7 of the 12 BPAs included in our sample.

FAR – Part 8.4, *Federal Supply Schedules*, Subpart Part 8.405-3, *Blanket Purchase Agreements*, requires that the ordering activities may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. In determining how many BPAs to establish, the ordering activity should consider the scope and complexity of the requirement, the need to periodically compare multiple technical approaches or prices; the administrative costs of BPAs; and the technical qualifications of the schedule contractor(s).

Commission Bulletin, 2004-04A, *FEC Procurement Procedures*, Revised May 18, 2006 requires that:

At the beginning of each fiscal year, the Administrative Officer (AO) reviews the previous fiscal year's procurement activity for each Blanket Purchase Agreement. If there are ten (10) or more procurement actions made against the BPA, a new BPA will be established for the new fiscal year. If there are fewer than ten (10) procurement actions, the AO will consult with the Purchasing Agent (PA) to determine if the BPA is still needed. If not, it is not renewed for the current fiscal year. If the services are still needed, a purchase order will be used.

In order to promote competition, BPAs are established with at least three vendors. The AO or PA prepares a Procurement Request (PR) including a

general description of the type of supplies/services to be ordered and the process for ordering and acceptance of each order. The estimated total for each BPA is based on the previous fiscal year's total expenditures.

The inefficient use of BPA procurement instruments resulted from a failure to consistently apply the FAR and FEC internal guidance. As a result, the procurement process was not managed in the most efficient and effective manner. For example, there were redundancies involved in the yearly creation of new BPAs. Although we noted this inefficiency, we identified no financial impact as a result of multiple BPAs being issued and presumably negotiated. Also, without review of multiple bids, there is the risk that the FEC did not obtain the best value for the items procured.

Recommendation

- 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.

Management's Response

- 8a. Management concurs. The OCFO does review all procurement instruments to determine the best contract approach. The Procurement Division is in the process of formalizing these determinations as part of the procurement policy.

Auditor's Comment

- 8a. The agency's planned action is responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendation.

9. Contract File Recordkeeping is Incomplete

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*.

Further, FAR 4.805, *Storage, handling, and disposal of contract files*, states that “(a) Agencies must prescribe procedures for the handling, storing, and disposing of contract files. These procedures must take into account documents held in all types of media, including microfilm and various electronic media.”

Commission Bulletin 2004-04A, *FEC Contracting Procedures*, dated May 18, 2006, defines the forms required to evidence procurement approval and authorization as follows:

“After the delivery order is completed, the CO signs the Order for Supplies and Services form; attaches the applicable contract clauses; prepares a funding request memo to the Accounting Officer, through the Administrative Officer, that provides the delivery order award information, such as the: 1) vendor name; 2) delivery order/contract number; 3) description of goods or services procured; 4) award amount; 5) Division Code and Object Class and forwards the funding request memo and documentation to the Administrative Officer. The Administrative Officer reviews the funding request memo and backup documentation and prepares an Obligation of Funds authorization memo to the Accounting Officer. Each obligation memo includes the same award information as the CO funding request memo, plus an Obligation number.”

Our review of contract files noted the following:

Location and Storage of Procurement Files

Initially, the Procurement Office was unable to locate some of the files selected for the sample. In fact, the Office of the Inspector General expended a significant amount of time in

assisting the Procurement Office in locating the procurement files. For example, the OIG was informed that thirteen boxes of procurement files were located in a closet in the Procurement area that might contain the missing files. Inventories of the records held in storage were not available and, therefore, each box had to be reviewed manually to determine whether the sample items were still maintained at the agency or sent to off-site storage. For items that still could not be located, the OIG reviewed the General Services Administration's SF-135, *Records Transmittal and Receipt* forms for the FEC, which detail the records removed to off-site storage facilities. The SF-135s were reviewed in order to identify and determine the number of boxes of contract files that had been accessioned to the National Archives and Records Administration (NARA) Records Center in Suitland, Maryland, and whether a detailed inventory of the records removed from the FEC was available for review. While some SF-135s were located and reviewed, the supporting documentation of detailed inventory lists were not included, and the OIG could not be assured that all SF-135s were provided. Instead, the OIG traveled to Suitland Maryland to review source documentation held by NARA, and requested retrieval of several boxes of records to locate the remaining sample items.

Completeness of Procurement Files

Our test procedures included a review of funding request memos, and obligation memos in the Delivery Order and Contract files. Based on our review, we noted the following:

- 14 of the 28 delivery order files did not contain obligation and funding request memos.
- 15 of the 34 contract files did not contain obligation memos.
- 15 of the 34 contract files did not contain funding request memos.

Central Contractor Registration Verification not Evidenced in Procurement Files

The Central Contractor Registration (CCR) has become an essential element of the financial management and payment process for the federal government, and provides the essential link between the contracting activity and the Electronic Funds Transfer system. FAR Subpart 4.11, *Central contractor registration*, provides the policies and procedures for requiring contractor registration in the CCR database, which is part of the Business Partner Network. The registration increases visibility of vendor sources for specific supplies and services, and establishes a common source of vendor data for the Government.

FAR 4.1103 (a), *CCR procedures*, requires that unless the acquisition is exempt under 4.1102, *CCR policy*, the contracting officer:

- (1) Shall verify that the prospective contractor is registered in the CCR database before awarding a contract or agreement. Contracting officers are encouraged to check the CCR early in the acquisition process, after competitive range has been established, and then communicate to the unregistered offerors that they must register;
- (2) Should use the Data Universal Numbering System (DUNS) number or, if applicable, the DUNS+4 number, to verify registration;

- (3) Need not verify registration before placing an order or call if the contract agreement includes the clause 52.204-7, *CCR*, or 52.212-4(t), *Contract Terms and Conditions Commercial Items*, or similar agency clause.⁷

We reviewed the procurement files to ensure that documentation attesting to vendors' registration in the CCR was available in the files. While the FAR does not require documentation be retained in the file, the failure to record the verification in some physical manner negates the ability to support that the CCR verification was performed. Our review noted that four (4) of the twenty-eight (28) delivery order files, and six (6) of the thirty-four (34) contract files did not contain documentation to substantiate the FEC's verification of the vendors' registration in the CCR database.

The condition noted above was the result of inadequate internal control over the process of maintaining procurement files, as well as inadequate supporting documentation on funding requests, obligation approvals, and CCR registration status within the files.

Without complete and accurate procurement files, the agency may not be able to support business decisions or progress of procurement activities, as required. The accessibility, consistency, and accuracy of procurement records which detail agency business activities are essential to:

- Ensure the delivery of quality products and services in a timely manner, and on budget; and
- Provide public confidence in the agency's ability to use taxpayer funds in an efficient and effective manner.

As a result of the condition noted above, the FEC was not compliant with the FAR and internal policies, which increased the risk of inadequate oversight and internal control over the procurement process. Failure to adequately maintain and dispose of procurement files after close-out violates the Federal Records Act.

Recommendations

The Procurement Office should:

- 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.
- 9b. Ensure that procurement files are adequately stored in a manner that facilitates retrieval, and that files are archived and destroyed in accordance with its NARA approved record schedule.

⁷ This is interpreted to apply to delivery orders and task orders written under indefinite delivery/indefinite quantity type procurements or calls against Blanket Purchase Agreements where the vendor CCR status was verified at the time the procurement was initially awarded.

- 9c. Take the necessary steps to maintain evidence of vendors' CCR registration in the contract files.

Management's Response

- 9a. Management concurs. Currently, as part of the procurement policy update, the OCFO expects to identify specific file data to be maintained with the use of indexes.
- 9b. Management concurs. See Management's Response for #9a. In addition, the draft procurement policy contains a chapter outlining the disposition of files, in accordance with NARA standards.
- 9c. Management concurs. As part of the procurement policy update, the Procurement Division plans to perform a monthly download of up-to-date CCR information into Comprizon.

Auditor's Comment

With respect to recommendations 9a through 9c, the agency's planned actions are responsive to the audit issues identified and, when fully implemented, should satisfy the intent of the audit recommendations.

Attachment

SUMMARY OF AUDIT FINDINGS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSE		
Finding	Recommendation	Management's Response
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.	Management concurs that acquisition planning is important to ensure effective procurement management. Based on the information provided in the audit report, Management concurs that the documentation in the contract files can be improved. Management does not concur that there are not sufficient procurement policies implemented. In October 2008, the Office of the Chief Financial Officer (OCFO) issued procurement policies and plans to issue a procurement directive in FY 2010.
	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.	Management concurs. The OCFO continues to seek opportunities to improve the procurement process. As part of the internal control program, OCFO expects to establish an internal review of procurement activities.
	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.	Management concurs. In FY 2009, OCFO is considering a pilot cross-training plan to establish procurement skills in other areas of the FEC to assist with succession planning and backup. The OCFO expects to formalize the program in FY 2010.
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.	Management concurs. As mentioned in Recommendation #1, the OCFO has established a more formal procurement process as outlined by the current procurement policy. Additionally, since April 2008, procurement actions are now processed electronically through Comprizon. This change has significantly reduced financial and budget errors. The OCFO staff also performs reconciliation between Comprizon and Pegasys to ensure timely processing of financial documents.

SUMMARY OF AUDIT FINDINGS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSE

Finding	Recommendation	Management's Response
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.	Management concurs. Management believes a number of positive steps have been taken proactively by FEC to address this issue. In FY 2009, the OCFO sponsored COTR training and was able to bring 11 COTRs into training compliance. Additionally, the Finance Committee approved additional funds to continue the training initiative. Currently, further COTR training is scheduled for the first quarter of FY 2010. Also, since the beginning of FY 2009, when a COTR is officially designated, the Procurement Division issues COTR letters, detailing the responsibilities of the COTR and where to go for assistance.
	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.	Management concurs. Again, the OCFO continues to improve the oversight of all aspects of the procurement processes.
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.	Management concurs. The Procurement Division has already initiated steps to ensure that FEC complies with the FPDS reporting requirements. As part of the current procurement policy, the OCFO has outlined the process to ensure this is accomplished.
	4b. The FEC should provide adequate oversight of FPDS-NG reporting and review the amounts reported, to ensure that they agree with contract values.	Management concurs. See the response for #4a.
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.	Management concurs that it is important to ensure the appropriate use of Time-and-Materials and Labor-Hours Contracts. Management notes that GSA Schedule provides for the ability for FEC to contract for labor-hour contracts which supplement FEC government staff as needed and the agency should take advantage of this contract option as appropriate. Management also notes that Time-and-Materials contracts are unusual for FEC.

SUMMARY OF AUDIT FINDINGS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSE

Finding	Recommendation	Management's Response
<p>6. Contract Close-Out Procedures are not Compliant with the FAR</p>	<p>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.</p>	<p>Management concurs that FEC can improve on executing its contract close-out procedures. As mentioned in Recommendation #1, the OCFO has established a current procurement policy that addresses contract close out and needs to ensure that the agency adheres to the procurement policy.</p>
<p>7. Lack of Adherence with Information Technology Management Reforms</p>	<p>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:</p> <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. 	<p>Management concurs. The Office of the Chief Information Officer (OCIO) has already begun to establish a formal review process for all IT decisions within the FEC.</p> <ul style="list-style-type: none"> • The FEC established a formal IT project review group in 2006 to review all Information Technology projects. • The FEC agrees that a formal charter should be established. • The board currently invites representatives from all functional areas of the agency including the CFO's office, which includes procurement and budget, and all appropriate representatives are encouraged to attend. • The FEC has kept a spreadsheet of decisions and actions and will improve upon documentation efforts by following the same documentation process that the Finance Committee has established. <p>Management notes that the particular provision of the Clinger-Cohen Act referenced in the body of the Audit Report does not apply to the FEC. Nevertheless, Management concurs that the FEC should follow best practices in relation to the Clinger-Cohen Act.</p>
<p>8. Blanket Purchase Agreements Were Not Used in Accordance with FAR</p>	<p>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.</p>	<p>Management concurs. The OCFO does review all procurement instruments to determine the best contract approach. The Procurement Division is in the process of formalizing these determinations as part of the procurement policy.</p>

SUMMARY OF AUDIT FINDINGS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSE

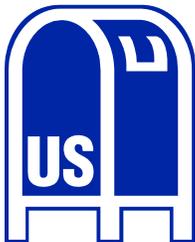
Finding	Recommendation	Management's Response
9. Contract File Recordkeeping Incomplete	9a. Implement procedures to ensure that adequate documentation is maintained and retained in the contract files. This process should be sufficient to enable supervisory review of the contract files to ensure compliance.	Management concurs. Currently, as part of the procurement policy update, the OCFO expects to identify specific file data to be maintained with the use of indexes.
	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.	Management concurs. See Management's Response for #9a. In addition, the draft procurement policy contains a chapter outlining the disposition of files, in accordance with NARA standards.
	9c. Take the necessary steps to maintain evidence of vendors' CCR registration in the contract files.	Management concurs. As part of the procurement policy update, the Procurement Division plans to perform a monthly download of up-to-date CCR information into Comprizon.

CONTACTING THE OFFICE OF INSPECTOR GENERAL

The success of the OIG mission to prevent fraud, waste, and abuse depends on the cooperation of FEC employees (and the public). There are several ways to report questionable activity.



Call us at **202-694-1015** (a confidential or anonymous message can be left 24 hours a day/7 days a week) **or toll-free at 1-800-424-9530** (press 0; then dial 1015 - Monday - Friday 8:30am – 5:00pm).



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