



OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: November 4, 2005

TO: Chairman

FROM: Inspector General

SUBJECT: Report on Audit of the Federal Communications Commission's Contracts & Purchasing Center

We have conducted an audit of the Commission's Contracts & Purchasing Center as part of our annual audit plan in order to provide the Commission with an independent and comprehensive evaluation and assessment of the Federal Communication Commission's (FCC) contracting purchasing activities.

The audit included documenting our understanding of the alignment of the Commission's mission, goals, objectives for procuring goods and services. This included analyzing how and if the controls in place support the acquisition processes and procedures and existing measurement systems within the FCC. We used our understanding of the Agency's mission, goals, objectives, and processes to determine if the controls in place appear to be valid, appropriate, and compliant with Federal Acquisition Regulations (FAR).

Overall, we determined the Commission to be generally compliant with its procurement policies and procedures and FAR. We also found FCC's Procurement Desktop (PD) software application to be in overall compliance with the general computer and application controls that we tested. However, we identified five (5) reportable findings and one observation in the Commission's procurement and contracting activities, six (6) reportable findings in the FCC's PD general computer and application controls, and ten (10) reportable findings in the FCC's UNIX System Security controls.

We made recommendations for improvement for each finding in those areas and also made a suggestion based on our observation in the procurement and contracting activities area that we believe Commission management should implement to improve its contract administration objectives. In their October 11, 2005 response to the audit findings, FCC management agreed with eighteen (18) and partially agreed with three (3) of the findings.

We would also like to thank OMD management and staff for the courtesy and cooperation extended to the audit team during this audit. Should you or your staff have any questions, please contact Thomas Cline, Assistant Inspector General for Policy and Planning, or me at (202) 418-0470.



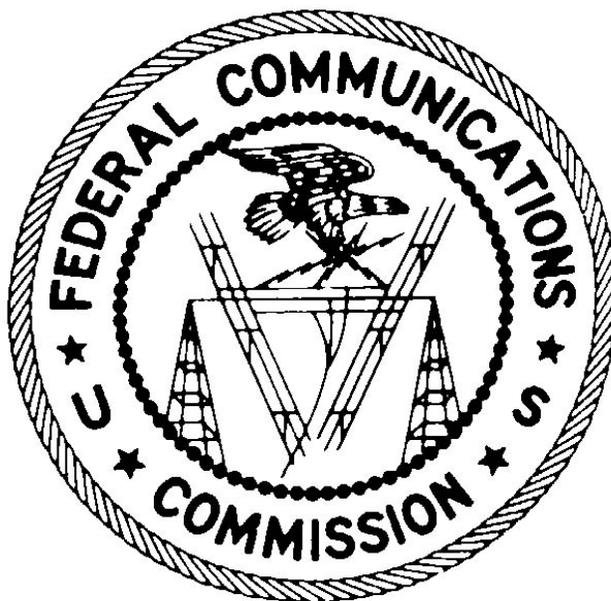
H. Walker Feaster III

cc: Chief of Staff
Managing Director
Deputy Associate Managing Director, Administrative Operations
Manager, Contracts and Purchasing Center
Chief, Applications Integration Group
Acting Manager, Computer Security Program
PERM

Attachment

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF INSPECTOR GENERAL



Report on Audit of the Federal Communications Commission
Contracts and Purchasing Policies and Procedures

Audit Report No. 04-AUD-10-20

November 4, 2005

Report on Audit of the Federal Communications Commission
Contracts and Purchasing Policies and Procedures

TABLE OF CONTENTS

	PAGE
EXECUTIVE SUMMARY	1
AUDIT OBJECTIVES	2
AUDIT SCOPE AND METHODOLOGY	2
BACKGROUND	3
AUDIT RESULTS	4
PROCUREMENT DESKTOP FINDINGS	Appendix A
SYSTEM SECURITY REVIEW FINDINGS	Appendix B
MANAGEMENT RESPONSE TO CONTRACTS AND PURCHASING CENTER FINDINGS	Appendix C

EXECUTIVE SUMMARY

The Office of the Inspector General (OIG) initiated an audit to provide the Commission with an independent and comprehensive evaluation and assessment of the Federal Communication Commission's (FCC) contracting purchasing activities.

The audit included documenting our understanding of the alignment of the Commission's mission, goals, objectives for procuring goods and services. This included analyzing how and if the controls in place support the acquisition processes and procedures and existing measurement systems within the FCC. We used our understanding of the Agency's mission, goals, objectives, and processes to determine if the controls in place appear to be valid, appropriate, and compliant with Federal Acquisition Regulations (FAR).

Overall, we determined the Commission to be generally compliant with its procurement policies and procedures and FAR. We also found FCC's Procurement Desktop (PD) software application to be in overall compliance with the general computer and application controls that we tested.

However, we identified five (5) reportable findings and one observation in the Commission's procurement and contracting activities, six (6) reportable findings in the FCC's PD general computer and application controls, and ten (10) reportable findings in the FCC's UNIX System Security controls.

In their October 11, 2005 response to the audit findings, FCC management agreed with eighteen (18) and partially agreed with three (3) of the findings.

This report contains non-public information. In accordance with the Commission's directive on the *Management of Non-Public Information* (FCCINST 1139), we have classified the appendices as "Non-Public - For Internal Use Only." Recipients of this report are expected to follow the established policies and procedures for managing and safeguarding the non-public information contained in this report as outlined in FCCINST 1139.

AUDIT OBJECTIVES

The Office of the Inspector General (OIG) performed an independent audit of the Federal Communication Commission's (FCC) contracting and purchasing activities with the objectives of determining whether the Commission:

- Solicits, awards, and administers contracts in accordance with Federal and Commission requirements.
- Verifies that expenditures are reasonable and necessary.
- Validates that purchases are under contract when warranted.
- Funds, lets and administers contracting activities in an economic and efficient manner.

- Performs, or has the expertise to perform, appropriate oversight of contractor activities and operations.

Other audit objectives included:

- Identifying opportunities to improve management control in the Contract & Purchasing Center.
- Documenting key process and identifying opportunities to improve efficiency or effectiveness.
- Examining the Commission's Procurement Desktop software in order to identify areas of weakness and recommend areas for improvement.

AUDIT SCOPE AND METHODOLOGY

The audit was conducted in accordance with *Government Auditing Standards* (updated June 2003) issued by the Comptroller General of the United States, and included such analyses, interviews and testing as required to support the audit findings. Through inquiry, observation, and inspection we performed the following as applicable:

Procurement and Contracting

- Met with the appropriate FCC personnel to confirm our understanding of the key procurement and contract monitoring processes and procedures.
- Flowcharted the key application control processes and procedures.
- Where applicable, observed key processes and procedures.
- Where applicable, tested key application controls related to manual or basic computerized processes for accuracy and completeness.
- Identified and extracted data elements from the Procurement Desktop System and obtained source documents for detailed testing and analysis.

Procurement Desktop Software

- Met with the appropriate FCC personnel to confirm our understanding of the key general and Procurement Desktop application controls.
- Reviewed the Procurement Desktop System Security Plan, fiscal year (FY) 04 information technology (IT) audit reports, and other documentation supporting FCC related information systems.
- Observed key Procurement Desktop screens used for system and user administration.

- Where applicable, reviewed general controls related to physical protection of assets and business contingency planning.

This examination included documenting our understanding of the alignment of the Commission's mission, goals, objectives for procuring goods and services. This included analyzing how and if the controls in place support the acquisition processes and procedures and existing measurement systems within the FCC. We used our understanding of the Agency's mission, goals, objectives, and processes to determine if the controls in place appear to be valid, appropriate, and compliant with Federal Acquisition Regulations (FAR).

Audit fieldwork was primarily performed within the Office of Managing Director's (OMD) Contracts and Purchasing Center (C&PC) and the Financial Services Operations Group (FSOG) from October 2004 through February 2005 at the FCC's headquarters located in Washington, DC.

BACKGROUND

On May 4, 1998, the FCC issued an FCC Directive to all Commissioners, Bureau and Office Chiefs, Branch Chiefs, Section Chiefs, and field offices establishing policies and procedures to ensure that all Commission procurements are conducted in accordance with applicable acquisition regulations and statutes, including the FAR. This directive details the Commission's policies and procedures for acquiring goods and services in compliance with the FAR. It also requires promoting full and open competition in all of its acquisitions to the maximum practical extent.

In response to a 1997 OIG audit report on the FCC's Contracting Officer's Technical Representative (COTR) program, the Commission issued the COTR Handbook. This guide, issued in July 1998, consists of the following five handbooks designed to provide contract management tools, checklists, practical guidance, and sample documents for its COTRs and Technical Points of Contact (TPOC):

Handbook 1 - *Getting Started*: Defines the technical personnel and procurement process, provides general procurement information, and describes the FCC's practices for identifying and documenting agency requirements for introduction to the budget process.

Handbook 2 – *Formulating the Solicitation*: Defines COTR and TPOC roles during the pre-award phase, provide directions for preparing the technical data package, and describes procedures for selecting a proposal.

Handbook 3 – *Executing the Project*: Describes the COTR's responsibilities for project planning and execution phases. It also details the steps that must be completed for closing out a project.

Handbook 4 – *Special Areas of Concern*: Provides specific guidance relating to ethical requirements, producing sole-source acquisition documentation, dealing with unsolicited

proposals, arranging for contracts performed at FCC facilities, and responsibilities after an unauthorized procurement act occurs.

Handbook 5 – *Glossary*: Provides a reference to some of the basic and most often-used terminology related to FCC contracts.

The FCC also instituted a COTR training program for all of its COTRs (and other contract management personnel) to attend before they could be formally designated as a project COTR. The Commission also instituted an annual COTR/TPOC training program requirement in order to keep its contract administration personnel current and up to date with any new developments. COTR guidance and references are available on the FCC's intranet site under the title *COTR Corner*.

AUDIT RESULTS

Overall, the OIG determined that the Commission is generally compliant with its procurement policies and procedures and FAR. In addition, we found FCC's PD application to be in overall compliance with the general computer and application controls that we tested. During the audit, we found FCC management to be dedicated to consistently improving its procurement and contract control environment. For example, we observed that FCC management is in the process of improving and standardizing procedures for closing out contracts.

However, we identified five (5) reportable findings and one (1) observation in the Commission's procurement and contracting activities, six (6) reportable findings in the FCC's PD general computer and application controls, and ten (10) reportable findings in the FCC's UNIX System Security controls. We detailed each of the procurement and contracting activity findings and recommendations below. Because the detailed findings and recommendations in our audit of the PD and systems security contain non-public information, we have included them as Appendices to this report. Each finding in the Appendices denotes an assigned risk rating, condition, cause, criteria, effect, and recommendation for FCC management consideration. Appendix A details six (6) audit findings consisting of one (1) High Risk and five (5) Medium Risk findings we identified in our audit of the FCC's PD general computer and application controls. Appendix B details ten (10) audit findings which consist of seven (7) Medium Risk and three (3) Low Risk findings resulting from our testing of the FCC's UNIX System Security controls.

On October 11, 2005, FCC management provided their formal management comments to the findings detailed in the July 29, 2005 draft audit report. FCC management agreed with eighteen (18) findings and partially agreed with three (3) findings. FCC's formal management comments, in their entirety, are provided with this report as Appendix C. Refer to Appendix C for management's detailed responses and for the areas management considers closed. We consider management's responses to be adequate.

As stated above, this report contains non-public information in the PD detailed audit results. In accordance with the Commission's directive on the *Management of Non-Public Information* (FCCINST 1139), we have classified this appendix as "Non-Public - For Internal Use Only." Recipients of this report are expected to follow the established policies and procedures for managing and safeguarding the non-public information contained in this report as outlined in FCCINST 1139.

Contracts & Purchasing Center Findings

Finding 1 – We found some contract files lacking the proper documentation sufficient enough for providing interested parties with a contracting action's history. This is necessary to document whether the procurement resulted from proper decision making and in compliance with Commission procedures. Additionally, we observed the following due to the Auctions Department and C&PC independent operations and utilization of different funding approval procedures:

- Contracting delays;
- Funding errors;
- Incomplete funding; and
- Inefficient use of resources.

As a result of our examination of approximately forty-five (45) judgmentally selected purchase order and contract files, we found thirty-three (33) errors. The requisition processing errors were primarily incomplete and/or missing purchase requests and funding documents. Two of the contract files did not contain the appropriate authorizing signatures on the final appropriated or auctions funding documents. Specific examples include:

- A purchase order file did not contain a signed final purchase request and the purchase justification had not been processed. The file did contain a signed draft purchase request.
- The final requisition document in a purchase order file did not have the Central Account Manager's (CAM) approval signature for appropriated funding. Additionally, the final requisition document was missing the required signatures; however the draft requisition was signed. We noted that funding had been approved in PD.
- A purchase order file did not contain a required Auctions funding slip.
- Twenty-four (24) of the reviewed purchase order files contained requisition documents that were incomplete and/or were not signed by the CAM or Contracting Officer (CO).

Follow-up discussions with contract management personnel indicate the primary causes for the missing and incomplete documents and missing authorizing signatures were:

- The CO obligated the money in the PD system. PD procedures for committing and approving funds were completed. The approval process was also completed. As a result, the authorized signatures for the approval of the modification(s) were not obtained on the hard copy but the approvals were captured in the Procurement Desktop Software.
- The Contracting Specialist and the CAM confirmed that the commitment was accomplished within PD by the CAM or program analyst who works for the CAM. The contracting specialist and CAM confirmed that the funds were approved within the Procurement Desktop system and it was accepted as appropriate approval.

Contracting personnel also indicated that incomplete and/or missing purchase requests and funding documents and missing signatures in contract files occur as a result of the different authorization and funding procedures between C&PC and the Auctions group. C&PC obligates and commits funds electronically in PD. The Auctions group reviews and approves auction funding requests with hard copy documents, which are then forwarded to C&PC for commitment and obligation in PD. The Auctions funding requests are circulated through the Auctions, Financial Operations, and Budget groups for authorizing signatures. Once the signatures are obtained, the documents are returned to the Auctions group, which are then hand-carried to C&PC for processing. This is done because only the contracting officers and specialists with warrants are authorized to obligate and commit appropriated and auction retention funds for the FCC. The complexity of this process has resulted in procurement delays and contract files with incomplete documentation.

FAR, Subpart 4.8, *Government Contract Files*, prescribes requirements for agencies to establish, maintain, and dispose of contract files. Generally, contract files should contain the following types of documentation that is sufficient to constitute a complete history of the transaction:

- Complete background as a basis for informed decisions at each step in the acquisitions process;
- Supporting actions taken;
- Information for reviews and investigations; and
- Essential facts in the event of litigation or congressional inquiry.

Additionally, FAR Subparts 4.802, *Contract Files*, and 4.803, *Contents of contract files*, prescribe what a contract file should generally consist of and provide examples of the records normally contained in contract files.

Based on this finding, we recommend the following corrective actions to increase the economy, efficiency and reduce errors in the Commission's procurement process:

1. FCC management should review and streamline the budget, requisition and procurement process in order to eliminate and/or reduce duplication of effort and errors between the auctions and appropriations associated with contracting actions.

2. C & PC should document their processes and procedures for completing tasks in PD and update the user manual.
3. An FCC contracting official should be responsible for reviewing all technical components in a vendor's file to ensure completion.

Finding 2 – We found instances where COTRs were noncompliant with the COTR Handbook. As a result of our testing the adequacy, completeness, and currency of FCC required documentation and monitoring activities by COTRS, we found the following exceptions:

- One (1) instance where COTR documentation did not contain current contract data.
- Two (2) instances where COTRs did not maintain a contract checkbook.
- Reviewed COTRs were not using a “labor-hours ledger.” However, we did note that each COTR has their own method for monitoring contractor labor hours and costs on T&M contracts.
- Two (2) instances where COTR's did not maintain an invoice worksheet.
- One (1) COTR did not have the following documents in their possession:
 - i. Sponsoring Bureau/Office identified, contractor name, COTR/TPOC identified, contractor name, tasks under the contract identified.
 - ii. Project start date and report date.
 - iii. Basic funding data.
 - iv. Current funding data.
 - v. Current status of each contact task (funding levels, labor-hours, contractor staffing of task, contract/task schedule, technical aspects, materials, etc.).

When we inquired about the reasons for not maintaining contract administration files in accordance with the COTR Handbook, the interviewed COTRs cited their lack of knowledge of the documentation requirements and unfamiliarity with the contract file checklist.

Book 3, *Executing the Project*, of the FCC's COTR Handbook details COTR's duties and responsibilities for monitoring contract performance and deliveries. The Handbook cites the Contract Administration Plan (CAP) as an essential work plan for measuring contractor performance and progress under the contract. The CAP is composed of five elements:

- *Contract Status Summary* - Identifies the sponsoring Bureau/Office, contractor, COTR, TPOC, and tasks under the project;
- *Project Progress Schedule* – Details the planned, revised, and actual completion dates for each deliverable;

- *Contract Checkbook* – Breaks out contract value, funding to date and amounts invoiced to date, and computes the balance remaining under the project;
- *Labor-Hours Ledger* – Compares the planned to actual labor hours for each labor category on time and materials and labor hour contracts; and
- *Invoice Worksheet* – Provides information on receipt date, invoice date, month incurred, invoice amount, approved amount, date approved, interest paid, and any comments.

Establishing the CAP helps COTRs monitor contract funding and expenditure levels, obtain and evaluate contractor technical and progress reports, and maintain contract work files which enable them to analyze contract progress and develop recommended courses of action when events warrant.

COTRs who do not document or keep current contract performance records put successful accomplishment of program objectives at risk because they cannot monitor contract information efficiently, compare contractor costs incurred to available funding, compare contract budgets to actual costs, or monitor labor hours burn rates on time and materials contracts. This can result in the COTR failing to identify delays in contract completion or recognize if and where a contractor has fallen behind. As a result, the Commission could be subjected to increased costs and incomplete or failed accomplishment of program objectives.

Accordingly, we recommend that Commission management should:

1. Implement formal procedures for performing periodic reviews of COTR contract administration records for compliance with the COTR Handbook; and
2. Require COTRs to attend refresher training for administering Commission contracts.

Finding 3 - Contract files were not maintained in accordance with Commission guidance. As a result of inspecting eight (8) contracts and related contract files, we found two (2) contract files only contained the contract, contract modifications, and solicitation documentation. We also found throughout our fieldwork that contract document sections are maintained in different locations by COs, COTRs, and Financial Operations. Additionally, the sections maintained by these parties vary from contract to contract, CO to CO, and COTR to COTR.

Based on discussions with the C&PC manager, the Commission has a centralized contract filing system. However, due to space constraints, COs maintain their active contract files in their offices. Commission COs, COTRs, and Financial Operations are responsible for establishing and maintaining the contract and contract administration files needed for accomplishing their objectives.

Having a decentralized contract filing system has made determining the accuracy and completeness of a Commission contract's history difficult and inefficient at times.

Accordingly, we recommend that the FCC should standardize the custody and contents of contract file documentation maintained by its contract administration teams.

Finding 4 – We found two (2) instances where a COTR was not requiring contractors to submit technical process and financial status reports in accordance with FCC guidance.

FCC contract monitoring procedures require its COTRs to:

- Require contractors to submit monthly progress reports;
- Measure the contractor’s performance against the contract’s statement of work; and
- Obtain contractor financial documentation that is sufficient for monitoring T&M type contracts.

The interviewed COTR cited his/her lack of knowledge of the documentation requirements in the COTR Handbook and FAR regulations as one of the reasons for not following the contract monitoring requirements. The COTR also stated that it was not necessary because it was a fixed-price contract.

Obtaining and reviewing contractor progress reports is a useful tool for monitoring contractor performance. For example, “out of scope” work could be identified by reviewing contractor’s status reports. The progress reports also documents contract completion milestones in relation to project deliverables. Failing to properly monitor contract performance can lead to inefficient or ineffective contractor work, cost overruns, and failed projects.

We recommend that the FCC provide refresher courses that emphasize COTR responsibilities for obtaining, reviewing, and documenting contractor status reports. In addition, the FCC should establish oversight procedures for monitoring COTR performance in administering contracts under their responsibility.

Finding 5 – We found seven (7) instances where COTRs did not review and approve invoices within five (5) days of receipt as required by the Commission’s “COTR Handbook.”

Interviewed COTRs cited various reasons for not approving invoices within 5 days on receipt, including their lack of knowledge of Prompt Payment Act requirements, contractors’ use of a manual timekeeping system causing delays in contractor invoice reviews, and invoices being held while a COTR is on leave or other absence.

FCC’s vendor payment policies and procedures provide guidelines to be followed and prescribe specific timelines for approval and payment of invoices. This includes requiring its COTRs to process and send approved or disapproved invoices along with the “FCC Invoice Routing and Payment Authorization Reservations, Services and Contracts” forms for payment within 5 days of the time they receive after they receive the invoice.¹

¹ FCC COTR Handbook, Book 3, *Executing the Project – Reviewing and processing Contractor Invoices*

The provisions of the Prompt Payment Act were established to enhance relationships between vendors and the government, improve competition for government business, and reduce the cost of property and services by paying invoices in a timely manner and avoiding interest payments. Delays in processing invoices for goods and services such as those cited above could damage the Commission's relationships with vendors and result in critical vendors ceasing to do business with the FCC.

Accordingly, we recommend that management should:

1. Insure that all responsible FCC units are complying with the Commission's accounts processing policies and procedures;
2. Investigate areas for improving the time it takes to process, approve, and pay invoices; and
3. Designate and train back-up personnel with the authority to approve contractor invoices in the COTR's absence. If an invoice approval is delayed after the 5 day turn-around, documentation of the cause should be stated in the "comments" box on the invoice routing form.

If the current procedures are no longer feasible due to reductions in staff or for other reasons, we suggest that the procedures be revised to provide for timely payment of vendor invoices within the timeframes required by the Act.

Observation – Based on twenty-seven (27) contracting and purchase order actions selected for review, it took approximately 7.6 days longer to obtain Auctions Retention funding versus appropriated funding.

The primary cause for the Auctions versus appropriated funding delays appears to be the extensive authorization levels that are required to obtain Auctions Retention funding.

These delays particularly impact contracting actions that require a combination of Auction Retention and appropriated funding, which have resulted in project delays and contract funding errors.

We suggest that FCC management should review and streamline its funding policies and procedures between the Auctions Department and C&PC to reduce errors and ensure accurate, complete and timely commitment of funds.

Management agreed with the OIG suggestion and stated that Commission management will review the budget, requisition, and procurement process to determine whether streamlining can take place to eliminate and/or reduce duplication of effort.