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United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General

Report of Audit

Review of the Department of State's
Monitoring of Contractor Performance

Report Number AUD/PPA-02-40, September 2002

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EXECUTIVE SUMMARY

PURPOSE

The Office of Inspector General (OIG) conducted a review to determine whether the Department of State (Department) had effective systems and procedures in place to monitor contractor performance. Specific objectives were to determine whether those Department officials with performance monitoring responsibilities followed federal and Department policies and procedures for monitoring contractor performance; ensured that contractor performance was in compliance with contract terms and conditions; and possessed the requisite training, technical expertise, and certification of qualifications to perform contractor performance monitoring. In addition to these objectives, OIG examined the Department's mechanisms for tracking and communicating with persons responsible for monitoring contractor performance.

OIG examined three domestic contracts, with a combined value of \$54 million, to determine whether policies and procedures were adhered to and the terms and conditions of the contracts had been met. In addition, OIG administered a questionnaire (see Appendix A) to Department officials worldwide who have served as contracting officer's representatives (COR). In over 100 responses, officials provided valuable insights into Department procurement operations. Finally, several recent OIG audits have examined performance monitoring on specific contracts. OIG has referenced the results of those audits in this report to offer a broader perspective on Department operations.

BACKGROUND

Between fiscal years 1990 and 2000, the dollar amount of goods and services for which the Department contracted more than tripled (see Appendix B). In fiscal year 2000, the Department contracted for over \$1.2 billion in supplies, equipment, local guard force services, construction projects, architecture and engineering services, and other contract areas. The Department also increased its efforts to contract out more of its operations that are commercial in nature in response to the

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Federal Activities Inventory Reform Act of 1998 (FAIR Act, 31 U.S.C. 501 note) and presidential guidance.

Within the Department, procurement authority is vested in the Bureau of Administration's Office of the Procurement Executive, which delegates that authority to contracting officers throughout the Department. To assist in monitoring the contractor's performance, contracting officers typically designate a COR. This is usually a person in the office or bureau receiving the goods or services who is responsible for the technical direction and evaluation of the contractor's performance and for ensuring that the goods or services are actually received. CORs may not, however, take any action that would change the value or the terms and conditions of the contract.

CORs, in turn, may be assisted by government technical monitors (GTM), who help with matters related to the technical direction of the contractor but do not normally have authority to sign for the receipt of goods and services and approve contractor invoices for payment.

Department regulations require that CORs receive written designation of their duties from the contracting officer and take a minimum number of hours of related training on a regular basis. The Department also recommends training for officials serving as GTMs.

RESULTS IN BRIEF

In general, CORs responsible for the three contracts that were examined in detail followed policies and procedures related to contractor performance, took reasonable steps to ensure that contract terms and conditions were being met, and received appropriate training. However, OIG identified deficiencies in COR oversight that mirrored results from prior OIG contract audits. Also, OIG found that the Department lacked centralized records on who was serving as CORs and GTMs.

In addition, a significant number of the questionnaire respondents -- from ten percent to 20 percent or more in some instances--provided answers to OIG's questions that pointed to shortcomings. Some examples of shortcomings that appeared on either the contracts examined or the questionnaire responses included invoices that were not processed in a timely manner, resulting in late payment interest penalties and the loss of available discounts; contract ceilings that were exceeded;

deduction tables that were not used, but could have compensated the Department for services that were not rendered; a large number of CORs who were performing their duties part-time; and COR duties redelegated to GTMs who had not been properly appointed.

Because of the persistent nature of these and other shortcomings, OIG believes that the Department should oversee contractor performance monitoring more actively. The Department's Bureau of Administration is moving in this direction by establishing a new division to oversee contractor performance monitoring. The Department's Bureau of Overseas Buildings Operations has also instituted a best practice by implementing a training program for all of its personnel with COR duties. OIG believes that additional steps are warranted: the Department needs to maintain records on personnel with performance monitoring responsibilities and monitor their training needs; establish an intranet site for posting guidance and information pertinent to CORs and GTMs; and notify the executive officers of all bureaus and diplomatic missions of the need for CORs and GTMs to comply with Department guidance.

PRINCIPAL FINDINGS

Adherence to Policies and Procedures

OIG's review of three domestic contracts valued at \$54 million pointed to several shortcomings, such as untimely processing of invoices, resulting in late payment penalties of over \$68,000 and the loss of about \$13,000 in discounts; CORs exceeding their authority; inadequate file documentation; and a lack of acquisition planning. In addition, in several areas, a consistent ten percent to 20 percent of those responding to OIG's questionnaire pointed to such shortcomings as lack of formal designation, unfamiliarity with fraud indicators, and poor communication with the contracting officers and other offices. Prior OIG audit work has identified many of these same problem areas.

Also, the Department does not maintain any centralized records of those who are serving as CORs or GTMs and the data OIG was able to obtain was either incomplete or inaccurate. The Department's Bureau of Administration is taking a positive step in implementing better oversight in this area by establishing a new division to oversee contractor performance monitoring within the bureau.

Compliance With Contract Terms and Conditions

Ensuring that the contractor meets the terms and conditions of its contract is the primary function of the COR and an integral part of the procurement process. On the selected contracts reviewed, OIG found that CORs were generally taking reasonable steps to ensure that the terms and conditions of the contract were being met. However, they failed to act in some areas, allowing authorized contract limits to be exceeded (by over \$30,000 in one instance) and failing to use deduction tables to compensate the Department for services that were not rendered. Such shortcomings have been found on prior OIG audits. In addition, about a third of OIG's questionnaire respondents said that they encountered problems, such as the untimely delivery of goods or services, goods or services not meeting qualitative specifications, and attempted overbillings. The majority of these CORs also reported that they resolved these performance problems informally. Although this approach may be justified in many instances, OIG believes that serious or continuing problems should be brought to the contracting officer's attention.

Adequacy of Training, Technical Expertise, and Qualifications

The Department's ability to monitor contractor performance effectively is dependent, in part, on its CORs and GTMs being adequately trained. On the selected contracts reviewed, OIG determined that not all CORs received refresher training as prescribed in Department regulations. Although the results of OIG's questionnaire revealed that the majority of CORs believed they possessed adequate technical knowledge of the products and services being delivered and had received some training, 14 percent did not, and several said that additional training would be beneficial. In this regard, the Department's Office of Overseas Buildings Operations has instituted a best practice that all bureaus could follow; specifically, by identifying all of its employees with performance monitoring responsibilities and mandating refresher training.

Contract Administration Performance Measures

During FY 2000, Department CORs and GTMs were responsible for monitoring over \$1.36 billion in procurement activity, yet the quality of their performance has not been accounted for as a discrete area of measurement. OIG found that the Department's FY 2001-2003 Bureau Performance Plans did not include strategies, tactics, indicators, or performance measures on contractor performance monitoring.

The Department's Bureau of Overseas Buildings Operations efforts to quantify improvements in the level of training received by its CORs and its goal of reducing contractor claims against the bureau illustrate what steps can be taken in this direction. OIG would encourage all Department contracting entities to look for ways of quantifying improvements made in contract administration and performance monitoring.

RECOMMENDATIONS

Given the continued growth in the Department's procurement activity, contractor performance monitoring will continue to increase in importance. OIG believes that more oversight of this area is needed, and the Bureau of Administration's Office of Acquisition Management has already moved in this direction with its planned creation of a new Business Operations Division.

OIG recommends that the Bureau of Administration's new Business Operations Division maintain up-to-date records on CORs and GTMs on the contracts the bureau awards, ensure that only trained personnel are appointed as CORs and GTMs, adequate resources exist to monitor contractor performance, and proper coordination exists among procurement personnel. OIG also recommends that the Bureau of Administration's Office of the Procurement Executive direct all contracting activities within the Department to maintain records on CORs and GTMs, and provide these data to the Office of the Procurement Executive; establish an intranet site for posting guidance and information specific to CORs and GTMs; and issue a Department notice to executive officers of all bureaus and diplomatic missions, requiring them to ensure that CORs and GTMs are adequately trained, adhere to Department COR guidance, and bring to the contracting officer's attention cases where contract terms and conditions are not being met and there are repeated or serious shortcomings in contractor performance.

DEPARTMENT COMMENTS

OIG received written comments on a draft version of this report from the Bureaus of Diplomatic Security, Overseas Buildings Operations, and Administration (see Appendices C, D, and E). The Bureau of Diplomatic Security agreed with the guidelines in the draft report and said that following the systems and procedures in place for monitoring contractor performance was essential for detecting fraud and

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malfeasance. The Bureau of Overseas Buildings Operations believed that the draft report offered a detailed depiction of COR activity and said that the suggested recommendations would streamline COR procedures within the Department and ensure accuracy and competence.

The Bureau of Administration noted that although all of OIG's draft recommendations were directed to its bureau, each program bureau and diplomatic mission should be required to manage its own CORs. The Bureau also suggested consolidating some recommendations for clarity. OIG concurred and revised its recommendations accordingly. However, the responsibility for ensuring that bureaus and missions adhere to Department policies and procedures for contractor performance belongs to the Bureau of Administration. OIG has revised the report to incorporate other comments from the bureau as appropriate (see Appendix E).

PURPOSE AND SCOPE

The purpose of this review was to determine whether the Department had effective systems and procedures in place for monitoring contractor performance. Specific objectives were to determine whether those with performance monitoring responsibilities followed federal and Department policies and procedures for monitoring contractor performance; ensured that contractor performance was in compliance with contract terms and conditions; and possessed the requisite training, technical expertise, and certification of qualifications to perform contractor performance monitoring. OIG also examined the Department's performance measures related to those who monitor contractor performance and the mechanisms for tracking and communicating with such persons.

OIG performed field work on this review domestically between March 2001 and February 2002. OIG had planned on performing overseas fieldwork on this assignment, but it was postponed after the terrorist attacks on September 11, 2001. OIG interviewed officials from the Bureau of Administration (A), the Foreign Service Institute (FSI), the Bureau of Consular Affairs, the Bureau of Diplomatic Security, and the Bureau of Overseas Buildings Operations (OBO). The interviewees included bureau and program office senior officials, contracting officers (COs)¹, contracting specialists, CORs, GTMs, and COR training instructors. OIG also reviewed and analyzed contract file documentation, the Federal Acquisition Regulation (FAR)², and Department-generated regulations and guidance that pertained to monitoring contractor performance. OIG examined other federal agency reports and best practice guides on contract administration and performance.

OIG's audit universe included all Department contracts that were active during FY 2000 and were valued at \$100,000 or more in the first year. Based on Department data, OIG identified about 812 contracts valued at approximately \$1.36 billion that met these criteria. OIG judgmentally selected three contracts from three different bureaus that presented varying degrees of risk to both the govern-

¹ A CO is a person with the authority to enter into, administer, and terminate contracts and make related determinations and findings.

² The FAR is the primary document for the Federal Acquisition Regulation System, which is established for the codification and publication of uniform policies and procedures for acquisition by all executive agencies.

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ment and contractors -- fixed-price, labor-hour, and cost-plus-fixed-fee. The selected contracts included 88 modifications, and their combined value at the time of the review was \$54 million. A total of 18 acquisition officials, 11 CORs, and a minimum of eight GTMs had duties related to the monitoring of performance under the contracts selected.

Another component of this review was a questionnaire that OIG administered to Department CORs serving both domestically and overseas.³ The questionnaire measured the opinions of CORs on a variety of contractor performance monitoring issues; however, the questionnaire was not an actual test of their knowledge or a review of the quality of their work on specific contracts. OIG submitted the questionnaire to 362 Department officials, who were identified from the data obtained from 15 Department entities that had contracting authority. OIG received a response rate of 54 percent (195 out of 362). However, many respondents returned the questionnaire to report that they had not served as CORs; only 104 completed the entire questionnaire. At the end of this report, OIG discusses the many difficulties it encountered in determining fully who in the Department has served as CORs and the ramifications of these difficulties for the Department in monitoring contractor performance.

Even though OIG cannot project the results of its questionnaire to the total population of Department CORs, the views and opinions of over 100 respondents who have served as CORs offer valuable insights about the Department's systems and procedures for monitoring contractor performance. The results are discussed throughout the body of the report and are included in their entirety as Appendix A.

In recent years, OIG has also performed several audits in response to Department requests, congressional requests, and hotline allegations that have focused on specific contracts. Many of these recent audits made substantive observations on the Department's monitoring of contractor performance. To add greater perspective to its work in this area, OIG has summarized, as sidebars, the results of those audits in the body of this report, as appropriate.

During April and May 2002, OIG conducted exit meetings with responsible officials from the Bureau of Administration's Office of the Procurement Executive (A/OPE); the Bureau of Administration's Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM); and FSI to share its findings and preliminary recommendations. OIG has revised the report, as appropriate, based on the comments received from these officials at those meetings. Their comments

³This questionnaire was concurrently administered to personnel at the Department and the Broadcasting Board of Governors as a component of audits that were conducted at both agencies.

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have been added throughout the report where applicable. As a result of the comments received at the exit meetings, OIG also conducted a benchmarking meeting with responsible officials from OBO to learn more about that organization's COR training and contract administration practices.

This review was performed in accordance with generally accepted government auditing standards by the Office of Audits, Procurement, Property, and Administrative Support Division. Major contributors included Richard Astor, division director; Gary Petrovich, audit manager; Barry Thomas, senior management analyst; and Meghan Parker, management analyst.

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BACKGROUND

The Department increasingly relies on contractors to provide the supplies and services essential to its operations (see Appendix B). Between FY 1990 and FY 2000, the annual number of contract actions by the Department has more than doubled, while the number of obligated dollars has tripled. In FY 2000, the Department obligated over \$1.2 billion for supplies, equipment, local guard force services, construction projects, architecture and engineering services, and other contract areas.⁴

This growth will likely continue as the Department implements the President's governmentwide management reforms, including the goal to expand competition articulated in Office of Management and Budget (OMB) Circular A-76, Performance of Commercial Activities. For example, as recently as August 3, 2001, the Department's Workforce Planning and Analysis Report to OMB indicated that the Department was assessing the activities its workforce was performing in order to expand outsourcing in accordance with the Federal Activities Inventory Reform Act of 1998 and OMB Circular A-76. One objective is to contract out at least 15 percent of those Department activities that are deemed commercial in nature.

Within the Department, procurement authority is vested in the Office of the Procurement Executive, which delegates that authority to officials throughout the Department. The bulk of the Department's procurement activity is generated by A/LM/AQM. During FY 2000, A/LM/AQM performed 63 percent of all Department contract actions and about 80 percent of the domestic actions. In addition, up to 273 overseas entities from six regional bureaus and 15 domestic entities from seven functional bureaus have authority to procure goods and services.

Under the FAR and Department regulations, the CO is ultimately responsible for ensuring that contractors comply with the terms and conditions of their contracts and safeguarding the interests of the Department in its contractual relationships. Although only COs with delegated procurement authority may enter into or terminate contracts, they typically delegate contractor performance monitoring responsibilities to CORs. The COR is usually a person in the office or bureau

⁴The \$1.2 billion figure from the General Service Administration is lower than the \$1.36 billion OIG cited earlier. This is because GSA's data represent only the Department data that was reported to the Federal Procurement Data System during FY 2000, which may not have included the more complete (recent contract actions) data that OIG collected from the Department.

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receiving the goods or services who is responsible for the technical direction and evaluation of the contractor's performance. These duties can be simple and brief or complex and time-consuming, depending on the type of contract, contractor performance, and nature of the work. Examples of typical COR duties include reviewing and approving invoices for payment; ensuring contractor compliance with contract quality assurance requirements; resolving controversial issues; performing property administration; and reviewing contractor status reports. CORs may not take any action, however, that would result in a change to the terms and conditions of the contract or affect the cost of the contract.

The Department's Contracting Officer's Representative Handbook and other regulations offer guidance on uniform responsibilities, procedures, and practices for administering contracts. CORs must receive a Delegation of Authority letter from the CO, which spells out their responsibilities and the limitations of their authority. The Department also requires that CORs complete 40 hours of approved COR training courses at FSI or equivalent courses from other government or commercial sources, obtain eight hours of refresher training at FSI within a five-year period, and acquire an additional 40 hours of training every five years to maintain a current base of knowledge. CORs must possess relevant qualifications or experience, which are determined at the CO's discretion. CORs may also ask COs to make changes in contract scope, funding, and schedules for major deliverables and provide final acceptance of contractor work.

The GTM is another key person who helps monitor contractor performance on some contracts. At the request of the COR, the CO may appoint a GTM to assist the COR with technical monitoring and evaluation of a contractor's performance. A contract may involve no GTMs or several, depending on its size and scope. On May 19, 2000, the Department issued Procurement Information Bulletin (PIB) No. 2000-29, which offered procedures on appointing GTMs and encouraged training for them. Unlike CORs, GTMs do not have the authority to ask COs to make changes in contract scope, funding, and schedules for major deliverables and they cannot provide final acceptance of contractor work.

The U.S. government has been concerned with weaknesses in contract administration for many years. The Office of Federal Procurement Policy (OFPP) has identified several weaknesses in contract administration practices used by civilian agencies.⁵ Principally, contracting officials often allocate more time to awarding contracts than administering existing contracts. This often leads to problems in contractor performance, cost overruns, and delays in receiving supplies and ser-

⁵ OFPP, *A Guide to Best Practices for Contract Administration* (Oct. 1994, edited Apr. 15, 1998).

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vices. Other deficiencies identified include unclear roles and responsibilities of CORs, improperly trained officials performing contract oversight, unclear statements of work that hinder contractor performance, and inadequate guidance on invoice processing. OFPP reports that it is essential that those entrusted with COR duties be competent in contract administration and aware of and faithful to the contents and limits of their delegation of authority from the CO. OFPP advises that it is imperative that a COR stay in close communication with the CO, relaying any information that may affect contractual commitments and requirements.

The Department has focused increased attention on shortcomings in contract administration. For example, the Bureau of Diplomatic Security issued a new Local Guard Program Handbook (12 FAH-7) in August 2001 that identified the most common mistakes that CORs make when administering local guard force contracts, including failure to take appropriate action when a contractor employee works more hours than allowed and failure to use deduct schedules when required. The handbook states that paramount COR duties include the proper receipt, verification, and payment of invoices. In addition, A/OPE and A/LM/AQM have issued numerous procurement information bulletins and policy memoranda dealing specifically with contract administration matters. Finally, FSI offers a variety of training courses designed specifically for CORs.

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FINDINGS

ADHERENCE TO POLICIES AND PROCEDURES

Overall, OIG found that, for the contracts examined, the Department CORs were following Department policies and procedures concerning contractor performance. However, in several areas, some shortcomings remain, including lack of formal designation of CORs and GTMs, poor communication, late payments and nonuse of discounts, CORs exceeding their authority, inadequate file documentation, lack of advanced acquisition planning, and unfamiliarity with fraud indicators. Although OIG has made recommendations in its prior audits to address problems with specific contracts, the results of this review suggest that more oversight and guidance is needed in order to strengthen the Department's contractor performance monitoring.

Selected Contracts Results

OIG examined three contracts of varying size and complexity that were active during FY 2000: a fixed-price contract for janitorial, ice control, and snow removal services with total obligations through January 2001 of about \$1 million; a cost-plus-fixed-fee contract for production, operations, and systems support services with total obligations through April 2001 of about \$52 million; and a labor-hour contract for armed protective escort services with total obligations through January 2001 of about \$1.7 million.

Overall, Department officials on these contracts were performing their duties in accordance with requisite policies and procedures. However, OIG found several areas of concern, including lack of formal designation, communication difficulties, late payment penalties, nonuse of discounts, CORs and GTMs exceeding authority, inadequate file documentation, and lack of advanced acquisition planning. Some of these problem areas have been noted in prior OIG audits as well (see sidebar).

CORs and GTMs Not Properly Appointed

Of the 11 current and former CORs on the three contracts selected, most had

not been nominated and appointed in accordance with Department regulations. Only one COR interviewed had received a memorandum of nomination from the COR's program office, and only three had received a memorandum of delegation from the CO that stated their authority, duties, and responsibilities. In addition, not one of the five that had received a memorandum of appointment was sure whether the contractor had received a copy in accordance with Department of State Acquisition Regulations (DOSAR) 642.270(f)(2).

OIG also found that at least three of the CORs occasionally appointed GTMs to perform their duties, such as approving payments and providing final acceptance of deliverables. These appointments violated PIB No. 2000-29 issued May 19, 2000, which states that appointment of a GTM is solely within the discretion of the CO. None of the seven GTMs that OIG either spoke with or identified had received appointment documentation from a CO.

Communication Difficulties Among COs, CORs, and GTMs

From an OIG review of a procurement for software development, November 2000:

A designated COR thought that he was never officially appointed as the COR and he had not taken COR training.

A GTM stated that she did not have any experience in the contracting area and had assumed that others were handling the contracting issues.

Three CORs on the contracts examined also cited communication difficulties among themselves, the COs, and the GTMs. One COR stated that he had received conflicting guidance from COs in the past, which had caused confusion. Another COR said that he was not sure who the current CO was; the former CO had left over one year earlier, and the contracting entity had not informed him of the successor's name. Another COR was not fully aware of all of the people who were performing GTM duties on the contract that he oversaw. In addition, a contract specialist on one of the contracts said that, although he was aware that the Department was late in paying some invoices, he did not know generally how the COR reviewed and approved invoices or whether the duty was being performed adequately.

Late Payment Penalties and Nonuse of Discounts

OIG found that CORs did not always ensure that invoices were processed in a timely manner, resulting in late payment interest penalties and the loss of available discounts.⁶ On the three contracts examined, OIG reviewed a total of 475 invoices totaling over \$45 million. Of these, OIG found that 160 invoices (34 percent) were not processed for payment within the required period (30 days) under the Prompt Payment Act of 1982 (31 U.S.C. 3901 *et seq.*). The Department paid over \$68,000 in interest penalties on these late invoices.

The delays in payment occurred, in part, because the CORs failed to annotate the invoices with the actual date of receipt and frequently did not submit the invoices to the designated payment office within five calendar days as required by 6 FAH-2 H-143, Exhibit H-143.2C. For all invoices reviewed, an average of 58 days elapsed between the dates on the invoices and the dates the Department paid the invoices. Additional shortcomings related to the reviewing and processing of invoices are addressed later in this report.

On one of the contracts, OIG also found a shortcoming related to prompt payment—the failure to make use of contractor discounts for early payment. On this contract, the vendor offered a two percent discount off the invoice if it was paid within one to 15 days, and a one-percent discount if it was paid within 16 to 25 days. The Department, however, did not pay any of these invoices within the periods that would have allowed for a discount. OIG calculated that up to \$12,885 in discounts might have been obtained if the invoices had been processed expeditiously.

From an OIG report on contractor support for a software development project, November 2000:

Contractors worked for lengthy periods of time without authorization and, hence, at their own risk.

Both the Department and the contractor paid inadequate attention to contract ceiling amounts, resulting in a \$2.8 million contract ceiling overrun and a contract administrative environment that allowed an unauthorized commitment of over \$500,000.

The COR said it was an "impossible job" because the COR had no staff, no place to keep the voluminous invoice records, and could perform the duties only part-time.

Management of the contract fell to GTMs spread throughout the Department, and communication among the CO, COR, and GTMs was poor.

⁶ OIG plans to examine late payment penalties and nonuse of discounts more comprehensively in the future.

Exceeding Authority

OIG found some instances of officials, who had never been formally designated as CORs or GTMs, exceeding their authority. For example, three nonappointed CORs approved payments on 65 invoices totaling over \$1.4 million, and four nonappointed GTMs violated PIB No. 2000-29 by approving payments on ten invoices totaling over \$510,000. Two CORs also violated 6 FAH-2 H-144 by directing contractor employees to undertake activities that changed contract deliverables. As a result, some work prescribed under the contract terms was left undone.

Inadequate File Documentation

OIG examined COR work files and CO contract files and found that they did not always contain adequate documentation. The COR work files were not always clearly indexed as required by 6 FAH-2 H-516 and copies of contracts, modifications, and deliverables were missing. The CO contract files often excluded copies of invoices and evidence that CORs possessed requisite training. OIG also determined that 61 out of 88 modifications (about 69 percent) obligated funds totaling over \$54.8 million, but OIG did not find funds certification documentation, required by the Anti-Deficiency Act, 31 U.S.C. 1341, and implemented by FAR 32.702, on 14 of the modifications (about 23 percent) valued at over \$17 million.

Acquisition Planning Needs Improvement

On all three contracts examined, OIG found that Department officials had not prepared advanced acquisition plans, as required in the FAR and Department guidance. A couple of CORs also reported problems that could be attributed to poor acquisition planning. For example, one COR said that, after a prior contract had expired and a new contract was awarded, he "spent the first year ironing out many kinks because additional tasks had to be added through modifications." Another COR said "a lack of detail in the statement of work later caused misunderstandings between

From an OIG review on a contract for international police monitors, April 2002:

The total original contract value was just under \$18 million, for the base year and one option year.

At the time of OIG's review, the contract had been modified over 60 times to add additional tasks and to extend the period of performance.

The total contract value had also been increased to over \$270 million (if all options were exercised).

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the program office and contractor." About half of the CORs with whom OIG spoke were not familiar with Department policy (DOSAR part 601 and 6 FAH-2 H-321) on preparing advanced acquisition plans, even though every year the Office of the Procurement Executive publishes guidance for all domestic executive directors and administrative officers and administrative officers at diplomatic missions.

One outcome typically related to a lack of adequate acquisition planning is frequent contract modification to clarify statements of work, add new tasks, or increase the contract ceiling (see sidebar). OIG found some indication of this on the three contracts it examined, as shown in Table 1 below. For example, a contract for janitorial and snow and ice removal services was extended from one annex building to five buildings; a contract for guard services was expanded by lifting travel restrictions, adding a night shift, adding armed escorts to evening shifts, and adding two vehicles for use by a security detail; and a contract for program management services was broadened by adding four new tasks; namely, systems administrative support, agency operational support, property management support, and contractor workforce training.

Table 1: Extent of Additional Costs

Contract Services	Ceiling Stated in Base Year Contract	Bilateral Modifications Obligorating Additional Funds	Obligations Identified During OIG's Examination	Additional Costs	Increase Over Base Year Contract Ceiling
Janitorial	\$892,294	5	\$1,071,244	\$178,950	20%
Guard	\$1,083,772	19	\$1,711,283	\$627,511	60%
Program Management	\$38,000,913	37	\$52,062,682	\$14,061,769	37%
Total	\$39,976,979	61	\$54,845,209	\$14,868,230	37%

OIG recognizes that it is often in the U.S. government's best interests to modify an existing contract rather than to initiate a new one, when it needs to procure additional goods and services. However, repeated contract modifications to correct statements of work or add tasks that might have been anticipated earlier impose unnecessary additional administrative expenses on the Department. Greater adherence to the Department's requirements for advanced acquisition planning would reduce these problems.

Questionnaire Results

In general, most CORs said they were aware of and adhering to Department policies and procedures on contractor performance monitoring. However, a notable number of CORs suggested that areas need improvement. Some specific results include:

- About ten percent of CORs did not agree that they were able to perform sufficient monitoring of the contractor's work to confirm that the terms and conditions of the contract were being met, and another seven percent were neutral.⁷
- About nine percent of CORs did not agree that they were sufficiently familiar with the legal and regulatory responsibilities of a COR to perform their roles, and another ten percent were neutral.
- Seventeen percent of CORs either disagreed or strongly disagreed that they were sufficiently familiar with the indicators or red flags of fraud to know whether the contractor may have been engaged in fraudulent activity, and another 11 percent were neutral.
- Approximately 42 percent of CORs assumed their duties after being informally delegated the duties by the person who had officially been appointed as the COR, or after being directed to take over the duties when the original COR left the organization.
- Twenty-four percent of CORs said that they did not have a memorandum of delegation from the CO, and another 13 percent were not sure.
- A consistent 15 percent to 20 percent of CORs responded either no or not sure to whether they had a complete copy of the basic contract, all contract modifications, and all invoices during their tenure as COR.
- About 76 percent of CORs answered either no or not sure to whether their GTMs had been formally appointed in writing, and about 54 percent also responded no or not sure to whether the GTMs had received any contract administration training.
- About 23 percent of CORs reported communication difficulties or disagreements with their CO or contracting entity. A similar percentage reported the same problems with the budget or finance office.

⁷ Respondents could choose neutral when they neither "strongly agreed" nor "agreed" with the statements posed for questions 12 through 16 of the questionnaire.

Lack of Department Data on CORs, GTMs Hampered Questionnaire Projectability

The Department lacked clear, timely data on personnel who have served as CORs, which hampered OIG's ability to project its questionnaire results departmentwide. The Department does not maintain any centralized records of people who are serving as CORs, nor does it maintain similar data on GTMs. The data OIG was able to obtain on personnel serving as CORs were either incomplete or inaccurate.

OIG had to obtain data from 15 different offices and was able to assemble only a portion of the necessary information. For example, A/LM/AQM maintained only a partial listing of 88 CORs named on the 390 contracts that it issued during the period OIG examined, and that listing was not completely accurate. Even after OIG assembled and screened the available data, a high percentage of questionnaire respondents (91, or 47 percent of the 195 who returned the questionnaire) said that they had not or were not sure they had served as CORs. Although the 104 CORs who completed the questionnaire provided useful and significant insights into the Department's contractor performance monitoring, accurate Department data on CORs would have allowed OIG to provide a more complete picture of this area and possibly make projections to the universe of Department CORs.

Need for Oversight of Contractor Performance Monitoring

The results of this review indicate that Department officials with performance monitoring responsibilities are maintaining general compliance with Department policies and procedures but are encountering recurring problems in some areas. OIG has made recommendations in prior audits to address some of these areas on specific contracts. For the three contracts examined during this review, OIG brought the specific problems cited above to the attention of appropriate officials. However, the recurring nature of some of these shortcomings points to the need for better data on CORs and GTMs and more centralized oversight of contractor performance monitoring.

The shortcomings and areas of concern OIG encountered during this review appeared to be attributable to two main factors: CORs are dispersed throughout the Department and are not accountable to any one office, and by and large they are performing their COR responsibilities only part-time. The CORs with whom OIG spoke about the three contracts that were reviewed stated that they perform COR duties on a part-time basis, and four of them had redelegated many of their

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COR duties to subordinates. Over a third of the questionnaire respondents reported that their COR duties took only up to 20 percent of their time, and another third said that it took between 21 percent and 40 percent.

Consequently, COR responsibilities appear to be an "add-on duty," often delegated from the "official" COR, with no one completely accountable for ensuring that the COR fully adheres to Department policies and procedures related to performance monitoring. Although the CORs nominally report to their CO regarding contract matters, this is not a subordinate-to-supervisor relationship. CORs report up the supervisory chain within their respective offices and bureaus, and the degree to which their supervisors focus attention on the quality of their COR work is unknown. Also, the Department does not require that the supervisors of CORs have COR training, so their ability to assess the quality of the COR work of their subordinates is likewise unknown.

OIG believes that A/LM/AQM and A/OPE should assume a more direct monitoring role over the hundreds of Department personnel who are called upon to serve as CORs. At an exit meeting, OIG learned that A/LM/AQM was already moving in this direction. Specifically, A/LM/AQM was establishing a new Business Operations Division that would consist of a Quality Assurance Branch and a Contract Management Branch. The Director of A/LM/AQM thought this office could maintain data on CORs for contracts issued by A/LM/AQM, but expressed reservations about whether it could handle the COR monitoring role departmentwide because A/LM/AQM would not be able to collect COR data on Department contracts that it does not award.

This new office within A/LM/AQM could significantly help to move toward improving Department contractor performance because A/LM/AQM performs the majority of the Department's procurement actions. OIG believes this office could maintain up-to-date records of the CORs and GTMs who monitor the contracts that A/LM/AQM awards and provide these data to A/OPE. Furthermore, as A/OPE proposed in its comments on a draft version of this report, this office could also ensure that CORs and GTMs are adequately trained, have adequate resources, and properly coordinate their activities.

Recommendation 1: The Bureau of Administration should direct that the Office of Acquisitions Management, upon establishing its Business Operations Division, assume responsibility for maintaining up-to-date records of contracting officer's representatives and government technical monitors on the contracts that it awards and provide these data to the Office of the Procurement Executive. Furthermore, the Business Operations Division should ensure that only trained personnel are appointed as contracting officer's representatives and government technical monitors; adequate resources exist to monitor contractor performance; and proper coordination takes place between contracting officer's representatives, government technical monitors, and contracting officers.

A/OPE, which sets acquisition policy departmentwide, should also take steps to increase the scrutiny and importance the Department places on contractor performance monitoring. First, building upon Recommendation 1, A/OPE could request that other Department offices with procurement authority maintain up-to-date records on CORs and GTMs for the contracts that they award, including the levels of training received, and provide these data to A/OPE. With such data, A/OPE would have a much clearer picture of the number and level of training of Department personnel responsible for contractor performance monitoring and could take the data into consideration as it advises Department senior management on procurement issues, develops new policy guidance, or undertakes new procurement initiatives.

Recommendation 2: The Bureau of Administration's Office of the Procurement Executive should issue a Department notice that directs all contracting entities within the Department to maintain up-to-date records of contracting officer's representatives and government technical monitors on the contracts that they award, including the levels of training received, and provide these data to the Office of the Procurement Executive.

Finally, A/OPE could also act as an ombudsman for Department personnel with performance monitoring responsibilities by creating a COR-specific site on its Department intranet page. Such a site could be used for posting guidance, addressing frequently asked questions, highlighting frequently occurring problem areas, and communicating other information specific to CORs and GTMs.

Recommendation 3: The Bureau of Administration's Office of the Procurement Executive should establish a Department intranet site for posting guidance and information specific to the Department's contracting officer's representatives and government technical monitors.

As part of its response to OIG's draft report, A/OPE established such a site on its intranet page; hence, this recommendation is closed with the issuance of the report. However, A/OPE should consider adding information relevant to GTM duties to the site as it evolves over time.

COMPLIANCE WITH CONTRACT TERMS AND CONDITIONS

Ensuring that the contractor meets the terms and conditions of the contract is the primary function of the COR and an integral part of the procurement process. OIG found that CORs on the contracts reviewed generally were taking steps to ensure that the terms and conditions of contracts are being met; however, CORs were failing to act in some areas, such as preventing authorized contract limits from being exceeded, ensuring that supporting documentation accompanies invoices, applying deductions for unacceptable work, and ensuring that contractors provide required services.

In addition, about a third of the CORs with whom OIG communicated reported that they encountered persistent performance problems, such as untimely delivery of goods or services, goods or services not meeting qualitative specifications, and attempted overbillings. In most cases, these CORs resolved such problems informally, but they occasionally took no corrective action and thereby left the problems unresolved. OIG believes that continuing or

From an OIG audit of a local guard services contract, June 2002:

Over several months, a contractor at one embassy provided fewer security personnel than were required under the contract, yet submitted invoices as if all personnel were provided.

The embassy discovered the error and took action to collect questioned costs, but made only limited use of its authority under the contract to impose deductions for labor hours not provided.

OIG estimated that the total additional amount the embassy could apply in deductions was over \$241,000.

serious problems should always be brought to the CO's attention.

Prior OIG audits have identified these same deficiencies. The recurring nature of these shortcomings suggests that more guidance and oversight is needed to improve the Department's contractor performance monitoring. OIG believes that the additional guidance could be directed through bureau Executive Directors and further oversight could be achieved by way of periodic reviews that would be performed by the Department's contracting entities.

Selected Contract Results

Overall, the CORs and GTMs on the three contracts OIG examined were generally taking steps to ensure that the terms and conditions of their respective contracts were being met. In reviewing contract and COR files, OIG did not observe any shortcomings that would indicate that the contractors were failing to provide goods or services in any significant way. OIG could not say with certainty that fraud was absent on the contracts reviewed because fraud, by nature, is sometimes hidden. However, OIG did not observe any significant indicators that would suggest fraud might have been present. OIG did observe some shortcomings in the COR's oversight of the selected contracts; namely, paid invoices exceeded contract authorizations, invoices lacked sufficient supporting documentation, deduction tables were not used, and services were not provided. OIG's observations on these areas parallel those found in other OIG audits (see sidebars).

Paid Invoices Exceeded Contract Authorizations

On a labor hour contract for protective services, OIG found that the contractor's billed invoices, which were paid by the Department, exceeded the amounts authorized on the contract by over \$30,000 during the contract's second option year (February 1, 1999, through January 31, 2000). During this period, billed labor hours for regular protective services exceeded the contract estimates by 350 hours, and the billed labor hours for overtime exceeded contract estimates by

From an OIG review of a procurement for software development, November 2000:

OIG found that billed contractor labor hours differed significantly from what was requested in the Department's delivery orders.

For example, on one delivery order, the Department estimated that it would need 10 labor hours for a "senior systems analyst;" the contractor provided 952 hours.

On the same delivery order, the Department estimated a need for 480 "senior data entry" hours, but the contractor provided zero.

If the Department had scrutinized this area, it might have taken steps to avoid the funding problems that emerged on this procurement.

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over 302 hours. The CORs monitoring this contract apparently realized that they would have a cost overrun after the fact and attempted to use the contract's unexpended funds from a prior year to pay for the overrun.

Invoices Lacked Sufficient Supporting Documentation

On another contract, OIG found that CORs did not ensure that invoices and supporting documentation were submitted in accordance with the terms of the contract. Although the contractor furnished automated reports that listed total hours worked by each employee monthly, it did not provide timesheets that supported the number of hours worked. The CORs should have ensured that the contractor provided the required timesheets, and they should have diligently crosschecked them against the automated reports. In addition, the contractor's monthly progress reports did not contain estimated costs and direct labor hours to be expended during each of the next monthly billing periods, as required by the contract.

Failure to Use Deduction Tables

On a contract for cleaning services, OIG found that the CORs did not use the deduction tables included in the contract to compensate the Department for services not performed, despite evidence of unsatisfactory performance. In one example, a domestic GTM⁸ for the COR conducted physical inspections at five annex buildings over a five-month period. Although he uncovered 99 instances where work required was apparently not done, no evidence was found to indicate that the deduction tables were applied to recoup the costs for services not provided. OIG believes that this failure was caused, in part, because neither the deduction tables nor the GTM's records were worded clearly enough to allow the COR to conclude that the contract terms in a given area were not met. If the GTM had used an inspection checklist that precisely matched the deduction tables, then the COR and CO could much more readily determine when deductions for failure to provide services were warranted.

Services Not Provided

On one contract, the CO and COR did not ensure that the contractor was

⁸ As noted earlier, neither this GTM nor the other six OIG spoke with or identified were officially designated as such.

providing quality control plans and training certifications for almost two years after the effective date of the contract, even though the contractor was required to provide the documents within 60 to 90 days of award of the contract.

On the cleaning services contract, OIG found that the COR did not ensure that all contractor employees possessed top-secret security clearances before performance, as required under contract terms. When this oversight was discovered approximately seven months later, two employees were prohibited from performing under the contract until the contractor provided appropriate documentation for obtaining the necessary clearances. Both employees were absent for two months before the contractor complied. As a result, daily, weekly, and monthly cleaning services required under the contract terms were not met, because there was not a sufficient number of capable and qualified employees on hand to perform the services.

Questionnaire Results

In general, most CORs said that they were ensuring the contractor's compliance with contract terms and conditions. However, a notable number of CORs provided responses that suggested areas needing improvement.

For example, approximately ten percent of CORs either strongly disagreed or disagreed that they were able to perform sufficient monitoring of the contractor's work, and about seven percent were neutral. In addition, as shown in Table 2, about a third of the CORs reported encountering performance problems, such as untimely delivery of goods or services, delivery of goods or services not meeting qualitative specifications, inappropriate or unprofessional behavior on the part of contractor staff, and over billing or attempted over billing for unallowable costs. In most cases these CORs resolved such problems informally, but in some instances, they took no corrective action and thereby left the problems unresolved (see questions 22 through 32, Appendix A). Although resolving performance problems informally could be, in some cases, in the U.S. government's best interests, the frequency of this approach in some areas might be cause for concern. OIG thinks that repeated or serious contracting problems should be brought to the CO's attention. Even if the specific contracting issues are resolved, the CO should be aware of how often difficulties are occurring with contractors.

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Table 2: Percentage of CORs Encountering Performance Problems and Their Reported Frequency

Performance Problem Encountered by CORs	(%) Encountered	(%) Rarely Occurred	(%) Occasionally Occurred	(%) Frequently Occurred
Untimely delivery of goods or services	38	41	49	10
Delivery of supplies or services not meeting specifications	38	56	38	5
Contractor staff exhibited inappropriate or unprofessional behavior	34	77	23	0
Overbilling or attempted overbilling for unallowable costs	33	50	26	15
Disagreement with contractor over what was contracted for	29	50	40	3
Communication difficulties or disagreements with the budget or finance office	24	44	44	12
Communication difficulties or disagreements with the contracting office or contracting officer	23	46	42	13
Nondelivery of supplies or services, or insufficient quantity	15	56	38	6
Communication difficulties or disagreements with superiors over deliverables or how the contractor's performance should be monitored	15	44	44	12
Difficulties carrying out COR duties, such as inspections and site visits, because contractor was in remote/distant location	11	18	45	36
Communication difficulties or disagreements with other CORs who were appointed to monitor the contract	6	33	33	0

Source: OIG questionnaire to contracting officer's representatives, questions 22 through 32 (see Appendix A).

OIG concluded that these difficulties could be partially attributed to the fact that both CORs and GTMs are performing their duties part-time. For example, about a third of CORs devoted only 20 or less percent of their time to their COR duties, another third devoted only between 21 percent and 40 percent of their time to their COR duties, and all of the GTMs who assisted these CORs were doing so part-time. In addition, OIG found that both CORs and GTMs are not always receiving mandatory training and refresher training as required by existing Department policy (i.e., DOSAR 642.270 and the Contracting Officers Representative Handbook) as discussed in detail later in this report.

Given the recurring nature of some shortcomings, OIG believes that additional guidance is needed to improve the Department's contractor performance monitoring. In its comments to a draft version of this report, A/OPE stressed the important role that the executive officers of the bureaus and diplomatic missions should play in overseeing the CORs and GTMs within their organizations. OIG believes that a Department notice from A/OPE to these officials would facilitate greater adherence to Department policies on contractor performance monitoring.

Recommendation 4: The Bureau of Administration's Office of the Procurement Executive should issue a Department notice to executive officers of all bureaus and diplomatic missions, requiring them to ensure that contracting officer's representatives and government technical monitors complete mandatory training and refresher training as required by existing Department policy; adhere to the procedures in the Contracting Officer's Representative Handbook; and bring to the contracting officer's attention cases where contract terms and conditions are not being met and there are repeated or serious shortcomings in contractor performance.

ADEQUACY OF TRAINING, TECHNICAL EXPERTISE, AND QUALIFICATIONS

The Department's ability to monitor contractor performance effectively in order to prevent fraud and malfeasance depends, in part, on ensuring that its CORs and GTMs are adequately trained. Although the results of OIG's review revealed that the majority of CORs thought they possessed adequate technical knowledge of the products and services being delivered and had received some training, OIG found that not all CORs are obtaining refresher training as required in DOSAR 642.270

and that the Department could do a better job of encouraging training for GTMs. In this regard, OIG found a best practice by OBO in identifying its COR community and requiring refresher training.

Selected Contracts Results

OIG's review of three contracts revealed that the majority of CORs possessed prior experience, technical knowledge of the products and services being delivered, and some training. However, some of the CORs thought that they needed refresher training, and many had not taken training within the time required by Department regulations. Also, COs and contract specialists were not keeping adequate records of COR training in their contract files, and some of their assumptions about the training their CORs had received were inaccurate.

Refresher Training Needed

Of the eight CORs with whom OIG spoke, seven had prior COR experience. Although the majority thought that their technical expertise ably prepared them for COR duties, a few said that additional training relevant to those duties would be beneficial. Two CORs also said they were not familiar with the Department's training policy and requirements. Although the majority of CORs (seven) had received training, in some instances the training took place prior to 1994, which indicates that some of them had not obtained the eight-hour refresher training at FSI and 40 hours of FSI-approved training at five-year intervals, as required by DOSAR 642.270.

Evidence of Training Documentation Needed

Although most of the COs and contracting specialists reported that they thought the CORs and other persons with duties related to monitoring contractor performance possessed adequate qualifications, training, and technical expertise, OIG found that these assumptions were often incorrect. In one example, a contracting specialist said all appointed CORs (four) had completed training, but OIG later determined that one of the CORs had never received training, and another had not received it since 1992, which was not in keeping with DOSAR 642.270. Both CORs had oversight of a cost-plus-fixed-fee contract that incurred \$58,000 in late payment penalties over four years. These penalties might have been avoided if the CORs had received training in accordance with Department policy.

OIG also found that two out of three contract files that were reviewed did not include evidence of COR training on Diplomatic Security Form DS-1930(e) under Tab A, dated November 1997, which is prescribed for mandatory use by domestic contracting entities for documenting contract files (DOSAR 653.204-70).

In addition, a training instructor who previously taught two FSI courses, PA-174 COR Pre-Award (3 days) and PA-175 COR Post-Award (two days), told OIG that, generally speaking, communication between COs and CORs is not adequate and that the majority of Department officials who attend COR training courses do not have procurement backgrounds. Therefore, the instructor thought it was imperative that CORs receive adequate training in all phases of contracting—preaward (presolicitation and solicitation award) and postaward (contract administration).

Questionnaire Results

Some key questionnaire observations include:

- Fourteen percent of CORs reported they had not received training before serving as a COR.
- About 12 percent of CORs reported that they had last received training prior to 1997, and nine percent of CORs stressed that additional training would be beneficial.
- Sixty-nine percent of CORs had completed two or more training courses, and 31 percent had completed only one training course.
- About 54 percent of CORs responded either no or not sure to whether their GTMs had received training.

A Best Practice: OBO's COR Training Program

OIG found that OBO has instituted a best practice for COR training. In August 2001, the Director of OBO initiated an effort to identify all OBO personnel with contractor performance monitoring responsibilities and update their training. Between August 2001 and May 2002, 273 OBO personnel received refresher training. Of these, 138 received PA-174 and PA-175 COR training over a five-day period through a series of eight in-house training sessions arranged by OBO. FSI offers these COR courses, but they are available only three times a year. OBO arranged for FSI's contract instructors to provide OBO personnel with its own sessions. FSI assisted by maintaining the records of the training taken and printing the certificates of course completion for the participants at no cost.

One outcome that OBO hopes to achieve with this initiative is to reduce contractor claims against the Department. On its intranet web site, OBO has identified "claims prevention as routine business" as one of its ten "Pillars of Excellence." OBO's decision to make contractor performance monitoring an area of high importance, and its devotion of time and resources to improving COR training, is a best practice that will improve OBO operations and may lower Department costs through reduced contractor claims and better contract administration.

CONTRACT ADMINISTRATION PERFORMANCE MEASURES

OIG would encourage all Department contracting entities to look for ways of quantifying improvements made in contract administration and performance monitoring. During FY 2000, Department CORs and GTMs were responsible for monitoring over \$1.36 billion in procurement activity, yet the quality of their performance has not been accounted for as a discrete area of measurement. OIG found that the Department's FY 2001-2003 Bureau Performance Plans did not include strategies, tactics, indicators, or performance measures on contractor performance monitoring. OIG found that one bureau planned to contract out more of its services in the future, and other bureaus cited that their strategic and performance goals depended on contractors' meeting delivery or training schedules. However, the bureaus did not identify the steps they would take to monitor, and thereby ensure, adequate contractor performance.

One of the hallmarks of leading-edge organizations - be they public or private - has been the successful application of performance measurement to gain insight into, and make judgments about, the organization and the effectiveness and efficiency of its programs, processes, and people.

Source: Procurement Executives' Association, "Guide to a Balanced Scorecard Performance Management Methodology"

In many areas, the Department's ability to meet strategic and performance goals will depend on how well contractor performance is monitored. To ensure good contractor performance, CORs and GTMs must be able to perform adequately the duties that COs formally delegate to them. Their ability to perform those duties depends on such factors as proper training, sufficient resources, and effective guidance from the Department's contracting entities and COs. According to 6 FAH-2 H-521:

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Good contractor performance can be achieved by adherence to the five basic elements of contract administration: (1) assuring that the contractor does the work that the contract calls for; (2) assuring performance along the most beneficial lines of effort; (3) assuring satisfactory quality; (4) assuring timeliness of performance; and (5) assuring performance within available funds.

Several areas of contractor performance monitoring lend themselves to improved measurement. These include:

- the number of CORs and GTMs;
- the amount of procurement activity overseen by each COR (to measure workload and identify those who are being asked to handle too much);
- the number of CORs and GTMs trained and the quality and timeliness of that training;
- enforcement actions undertaken by COs and CORs (initiating deductions, contract terminations for cause, civil or criminal enforcement actions);
- the reduction in Prompt Payment Act interest penalties paid as a proportion of overall procurement dollars;
- the increase in savings to the Department through contractor discounts; and
- the reduction in contract disputes or other indicators of disruption to contractor performance. (As discussed earlier, OBO has identified the reduction in contractor claims as a quantifiable measure that it is trying to implement.)

In the draft version of this report, OIG recommended that A/OPE develop performance measures for contractor performance monitoring. In its comments to the draft, A/OPE said that it was not feasible for A/OPE to develop performance measures for CORs as a group and pointed out difficulties in using some of the areas listed above as performance measures. However, as mentioned earlier in this report, OBO has moved forward in this area by quantifying the number of CORs it has and the amount of training those CORs receive, in part, to reduce contractor claims against the Department. OIG would encourage all Department contracting entities to follow OBO's example by looking for ways of quantifying improvements made in contractor performance monitoring.

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LIST OF RECOMMENDATIONS

Recommendation 1: The Bureau of Administration should direct that the Office of Acquisitions Management, upon establishing its Business Operations Division, assume responsibility for maintaining up-to-date records of contracting officer's representatives and government technical monitors on the contracts that it awards and provide these data to the Office of the Procurement Executive. Furthermore, the Business Operations Division should ensure that only trained personnel are appointed as contracting officer's representatives and government technical monitors; adequate resources exist to monitor contractor performance; and proper coordination takes place between contracting officer's representatives, government technical monitors, and contracting officers.

Recommendation 2: The Bureau of Administration's Office of the Procurement Executive should issue a Department notice that directs all contracting entities within the Department to maintain up-to-date records of contracting officer's representatives and government technical monitors on the contracts that they award, including the levels of training received, and provide these data to the Office of the Procurement Executive.

Recommendation 3: The Bureau of Administration's Office of the Procurement Executive should establish a Department intranet site for posting guidance and information specific to the Department's contracting officer's representatives and government technical monitors.

Recommendation 4: The Bureau of Administration's Office of the Procurement Executive should issue a Department notice to executive officers of all bureaus and diplomatic missions, requiring them to ensure that contracting officer's representatives and government technical monitors complete mandatory training and refresher training as required by existing Department policy; adhere to the procedures in the Contracting Officer's Representative Handbook; and bring to the contracting officer's attention cases where contract terms and conditions are not being met and there are repeated or serious shortcomings in contractor performance.

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ABBREVIATIONS

A	Bureau of Administration
A/LM/AQM	Office of Logistics Management, Office of Acquisitions Management
A/OPE	Office of the Procurement Executive
CO	Contracting officer
COR	Contracting officer's representative
DOSAR	Department of State Acquisition Regulations
FAR	Federal Acquisition Regulation
FAH	Foreign Affairs Handbook
FAM	Foreign Affairs Manual
FSI	Foreign Service Institute
GSA	General Services Administration
GTM	Government technical monitor
OBO	Bureau of Overseas Buildings Operations
OFPP	Office of Federal Procurement Policy
OIG	Office of Inspector General
OMB	Office of Management and Budget
PIB	Procurement Information Bulletin

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OIG QUESTIONNAIRE RESULTS

In November 2001, OIG distributed a questionnaire to 362 Department officials who had served or had been trained to serve as CORs, according to Department data. As of February 2002, OIG received a total of 195 responses, or 54 percent. However, only 104 of the respondents completed the questionnaire. The other 91 answered "no" or "not sure" to questions 1 and 2 and returned the questionnaire to OIG, indicating that they did not meet the definition of COR that was set forth in the questionnaire.

Two of the 104 respondents who completed the questionnaire had also answered no to questions 1 and 2. These respondents did not offer any narrative explanation as to why they completed the questionnaire, but OIG noted that both had responded that they had been directed by their superiors to take over the responsibilities of the COR when the previous COR left (question 4).

Some of the percentages and counts shown do not equal 100 percent or 104 respondents owing to the factors that follow:

1. Percentages shown for all of the questions were arrived at by rounding them to display only two decimal places. This affected questions 14, 15, 16, 17, 21, 36, and 40.
2. Questions 4, 10, 22-33, and 38 provided for more than one response.
 - Question 4 - Counts shown for A through D were divided by the total number of respondents (104) to arrive at the percentages shown.
 - Question 10 - Counts shown for A through H were divided by the total number of respondents (104) to arrive at the percentages shown.
 - Questions 22-32 - For each of these questions, the counts shown for C through N were divided by the total number of respondents who responded A to arrive at the percentages shown.
 - Question 33 - Counts shown for A through C were divided by the total number of respondents (104) to arrive at the percentages shown.
 - Question 38 - Counts shown for A through D were divided by the total number of respondents (104) to arrive at the percentages shown.
3. A number of respondents opted not to answer some questions, notably questions 7, 14, 19, 20, 24, 25, 34-37, and 39-42.

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Questionnaire to Contracting Officer's Representative and Results

For the purpose of this questionnaire, individuals who are formally assigned contract administration responsibilities (e.g., CORs and COTRs) are hereafter referred to as CORs. Questions 1 through 44 follow. Please elaborate on any of your responses under question 43.

For 1 and 2, select the response that best reflects your status.

1. Were you the COR during all or part of FY 2000 on an active contract that had a base value of \$100,000 or more at the time of contract award?
 - A. **47% (92)** Yes - proceed to 3 and complete the remainder of the questionnaire. *If you were COR for more than one contract during FY 2000, limit your responses to only the contract with the highest overall dollar value*
 - B. **2% (3)** Not Sure - proceed to 2
 - C. **51% (100)** No - proceed to 2

2. Were you the COR within the last 3 years on a contract that had a base value of \$100,000 or more at the time of contract award?
 - A. **10% (10)** Yes - proceed to 3 and complete the remainder of the questionnaire. *If you were COR for more than one contract within the last 3 years, limit your responses to only the contract with the highest overall dollar value*
 - B. **3% (3)** Not Sure - proceed to question 43 and explain your circumstance in the space provided. Please return the questionnaire to OIG for statistical purposes
 - C. **87% (88)** No - stop here and return the questionnaire to OIG for statistical purposes

For 3 through 11, select the response that best reflects your standing.

3. What category of employee were you during your tenure as a COR?
 - A. **93% (97)** U.S. Government
 - B. **6% (6)** Personal services contractor
 - C. **1% (1)** Other (*explain under question 43*)

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4. By what mechanism did you become the COR? *Check all that apply.*
- A. **33% (34)** I was identified by name as the COR in the original contract
 - B. **25% (26)** I was designated as the COR in a subsequent modification to the contract, succeeding the prior COR(s)
 - C. **13% (13)** I was delegated the responsibilities of COR by the individual who had officially been appointed the COR
 - D. **35% (36)** I was directed by my superiors to take over the responsibilities of COR when the previous COR left (through retirement, reassignment, etc.)
 - E. **6% (6)** Other (*explain under question 43*)
5. Did the contracting officer give you a memorandum of delegation appointing you to serve as the COR?
- A. **63% (66)** Yes
 - B. **24% (25)** No
 - C. **13% (13)** Not Sure
6. Did you have a complete copy of the basic contract during your tenure as a COR?
- A. **85% (88)** Yes
 - B. **13% (14)** No
 - C. **2% (2)** Not Sure
7. Did you have a copy of all contract modifications during your tenure as a COR?
- A. **81% (83)** Yes
 - B. **15% (15)** No
 - C. **5% (5)** Not Sure
8. Did you have a copy of all invoices during your tenure as a COR?
- A. **83% (86)** Yes
 - B. **14% (15)** No
 - C. **3% (3)** Not Sure

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9. Did you receive training relevant to contract administration and your COR duties prior to serving as a COR?

- A. **86% (89)** Yes, most recently in (give year)
- B. **14% (15)** No
- C. **0% (0)** Not Sure

10. Department of State personnel only: if your response to 9 was "yes," which of the following training classes have you taken related to contract administration? *A through E regard classes taught at the National Foreign Affairs Training Center. Check all that apply. If your response to 9 was "no" proceed to 12.*

- A. **33% (30)** PA 130 - How to be a COR
- B. **56% (50)** PA 174 - COR Training Pre-Award
- C. **49% (44)** PA 175 - COR Training Post-Award
- D. **6% (5)** PA 134 - How to Write a Statement of Work
- E. **6% (5)** PA 223 - Overseas Contracting Warrant Training
- F. **13% (12)** Other training classes offered by the Department that touched upon contract or performance monitoring
- G. **19% (17)** Other U.S. Government training classes that touched upon contract or performance monitoring
- H. **12% (11)** Other private sector training classes that touched upon contract or performance monitoring

11. [Question 11 was not applicable to Department personnel and was therefore removed from these questionnaire results.]

For 12 through 16, indicate your level of agreement or disagreement with the statements as they pertained to your experience as a COR. Check only one response for each statement.

12. I was sufficiently familiar with the terms and conditions of the contract to know what the contractor was required to do.

A.Strongly agree	B.Agree	C.Neutral	D.Disagree	E.Strongly disagree
51% (53)	40% (42)	6% (6)	3% (3)	0% (0)

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13. I had sufficient knowledge of or technical expertise in the type of work being performed by the contractor to evaluate whether the terms and conditions of the contract were being met.

A.Strongly agree	B.Agree	C.Neutral	D.Disagree	E.Strongly disagree
58% (60)	35% (36)	4% (5)	3% (3)	0% (0)

14. I was able to perform sufficient monitoring of the contractor's work (such as conducting site visits, performing quality assurance tests, evaluating payroll records/time sheets, etc.) to confirm that the terms and conditions of the contract were being met.

A.Strongly agree	B.Agree	C.Neutral	D.Disagree	E.Strongly disagree
40% (41)	44% (45)	7% (7)	8% (8)	2% (2)
1 no response				

15. I was sufficiently familiar with the legal and regulatory responsibilities of a COR to perform my role.

A.Strongly agree	B.Agree	C.Neutral	D.Disagree	E.Strongly disagree
29% (30)	53% (55)	10% (10)	8% (8)	1% (1)

16. I was sufficiently familiar with the indicators or "red flags" of contract and procurement fraud to know whether the contractor may have been engaged in fraudulent activity.

A.Strongly agree	B.Agree	C.Neutral	D.Disagree	E.Strongly disagree
23% (24)	50% (52)	11% (11)	13% (13)	4% (4)

For 17, indicate the approximate percentage. CORs typically perform their designated duties on either a part-time or full-time basis. COR duties can be simple and brief or complex and time-consuming, depending on the type of contract, contractor performance, and the nature of the work.

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17. During the period that you served as COR, approximately what percentage of your time did you devote specifically to your COR duties, as opposed to other office duties you may have had?	A.0-20%	B.21-40%	C.41-60%	D.61-80%	E.81-100%
	35% (36)	34% (35)	18% (19)	6% (6)	8% (8)

For 18 through 21, indicate what percentage of time you devoted to each broad category below while performing your COR duties. The sum of your responses to 18 through 21 should not exceed 100 percent.

18. <u>Financial</u> : receiving the invoices from the contractor and approving them for payment, tracking payments to contractor to date, determining funds remaining on the contract or delivery/task order, etc.	A.0-20%	B.21-40%	C.41-60%	D.61-80%	E.81-100%
	72% (75)	22% (23)	2% (2)	3% (3)	1% (1)

19. <u>Deliverables Monitoring</u> : making site visits, conducting quality assurance tests, analyzing payroll records/time sheets, or performing other activities to determine if the contractor provided deliverables specified in the contract.	A.0-20%	B.21-40%	C.41-60%	D.61-80%	E.81-100%
	59% (61)	30% (31)	7% (7)	2% (2)	2% (2)

20. <u>Compliance Monitoring</u> : reviewing the contractor's compliance with contractual commitments not directly tied to deliverables; i.e., drug free workplace, drug free awareness programs, environmental practices, small and disadvantaged business subcontracting plans, purchasing system, compensation structure, insurance plans, etc.	A.0-20%	B.21-40%	C.41-60%	D.61-80%	E.81-100%
	86% (88)	10% (10)	3% (3)	0% (0)	1% (1)

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21. <u>Project Planning</u> : projecting future contractor support needs, preparing independent government cost estimates, and developing statements of work for contract modifications and task/delivery orders.	A.0-20% 54% (56)	B.21-40% 35% (36)	C.41-60% 7% (7)	D.61-80% 4% (4)	E.81-100% 1% (1)
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For 22 through 32, indicate the most frequently occurring problems you encountered as the COR, how often the problems generally occurred, and how the problems were resolved. Performance problems that are commonly experienced during contract administration are addressed here. If your response to a question is "Not encountered," then proceed to the next question. If your response to a question is "Encountered," then also respond to C through N for the question. More than one response may be applicable for F through N (check all that apply).

	A.	B.
	Encountered	Not encountered (proceed to 23)
22. Untimely delivery of goods or services.	38% (39)	63% (65)
<i>How often did the problem occur?</i>	C. 41% (16) Rarely - once a year	
	D. 49% (19) Occasionally - once a quarter	
	E. 10% (4) Frequently - once or more a month	
<i>How was the problem resolved?</i>	F. 8% (3) No action was taken	
	G. 82% (32) Orally, informally, and amicably	
	H. 18% (7) Contract was modified	
	I. 13% (5) U.S. Government made a price adjustment	
	J. 8% (3) Issued cure notice or show cause notice	
	K. 0% (0) Contract allowed to lapse without renewal	
	L. 3% (1) Termination for convenience	
	M. 0% (0) Termination for default or cause	
	N. 0% (0) U.S. Government took civil or criminal action	

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	A. Encountered	B. Not encountered (proceed to 24)
23. Delivery of supplies or services not meeting qualitative specifications.	37% (39)	63% (65)
<i>How often did the problem occur?</i>	C. 56% (22) Rarely - once a year D. 38% (15) Occasionally - once a quarter E. 5% (2) Frequently - once or more a month	
<i>How was the problem resolved?</i>	F. 3% (1) No action was taken G. 90% (35) Orally, informally, and amicably H. 3% (1) Contract was modified I. 5% (2) U.S. Government made a price adjustment J. 8% (3) Issued cure notice or show cause notice K. 0% (0) Contract allowed to lapse without renewal L. 0% (0) Termination for convenience M. 0% (0) Termination for default or cause N. 0% (0) U.S. Government took civil or criminal action	

	A. Encountered	B. Not encountered (proceed to 25)
24. Non-delivery of supplies or services, or insufficient quantity.	16% (16) 1 no response	84% (87)
<i>How often did the problem occur?</i>	C. 56% (9) Rarely - once a year D. 38% (6) Occasionally - once a quarter	
<i>How was the problem resolved?</i>	E. 6% (1) Frequently - once or more a month F. 0% (0) No action was taken G. 75% (12) Orally, informally, and amicably H. 0% (0) Contract was modified I. 6% (1) U.S. Government made a price adjustment J. 13% (2) Issued cure notice or show cause notice K. 0% (0) Contract allowed to lapse without renewal L. 13% (2) Termination for convenience M. 0% (0) Termination for default or cause N. 0% (0) U.S. Government took civil or criminal action	

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	A. Encountered	B. Not encountered (proceed to 26)
25. Overbilling or attempted billing for unallowable costs.	33% (34)	67% (69)
	1 no response	

<i>How often did the problem occur?</i> 4 no responses to this section	C. 50% (17)	Rarely - once a year
	D. 26% (9)	Occasionally - once a quarter
	E. 15% (5)	Frequently - once or more a month

<i>How was the problem resolved?</i> 1 no response to this section	F. 0% (0)	No action was taken
	G. 62% (21)	Orally, informally, and amicably
	H. 6% (2)	Contract was modified
	I. 32% (11)	U.S. Government made a price adjustment
	J. 6% (2)	Issued cure notice or show cause notice
	K. 3% (1)	Contract allowed to lapse without renewal
	L. 3% (1)	Termination for convenience
	M. 0% (0)	Termination for default or cause
N. 0% (0)	U.S. Government took civil or criminal action	

	A. Encountered	B. Not encountered (proceed to 27)
26. Contractor staff exhibited inappropriate or unprofessional behavior.	34% (35)	66% (69)

<i>How often did the problem occur?</i>	C. 77% (27)	Rarely - once a year
	D. 23% (8)	Occasionally - once a quarter
	E. 0% (0)	Frequently - once or more a month

<i>How was the problem resolved?</i> 2 no response to this section	F. 3% (1)	No action was taken
	G. 89% (31)	Orally, informally, and amicably
	H. 0% (0)	Contract was modified
	I. 0% (0)	U.S. Government made a price adjustment
	J. 0% (0)	Issued cure notice or show cause notice
	K. 0% (0)	Contract allowed to lapse without renewal
	L. 0% (0)	Termination for convenience
	M. 3% (1)	Termination for default or cause
N. 0% (0)	U.S. Government took civil or criminal action	

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27. Disagreement with contractor over what was contracted for. A.Encountered 29% (30) B.Not encountered (proceed to 28) 71% (74)

How often did the problem occur?
2 no response to this section of question.

C. 50% (15) Rarely - once a year
D. 40% (12) Occasionally - once a quarter
E. 3% (1) Frequently - once or more a month

How was the problem resolved?

F. 3% (1) No action was taken
G. 80% (24) Orally, informally and amicably
H. 27% (8) Contract was modified
I. 23% (7) U.S. Government made a price adjustment
J. 17% (5) Issued cure notice or show cause notice
K. 0% (0) Contract allowed to lapse without renewal
L. 0% (0) Termination for convenience
M. 0% (0) Termination for default or cause
N. 0% (0) U.S. Government took civil or criminal action

28. Difficulty carrying out your COR duties, such as inspections and site visits, because contractor was in a remote/distant location. A.Encountered 11% (11) B.Not encountered (proceed to 29) 89% (93)

How often did the problem occur?

C. 18% (2) Rarely - once a year
D. 45% (5) Occasionally - once a quarter
E. 36% (4) Frequently - once or more a month

How was the problem resolved?

F. 55% (6) No action was taken
G. 36% (4) Orally, informally, and amicably
H. 9% (1) Contract was modified
I. 0% (0) U.S. Government made a price adjustment
J. 0% (0) Issued cure notice or show cause notice
K. 0% (0) Contract allowed to lapse without renewal
L. 0% (0) Termination for convenience
M. 0% (0) Termination for default or cause
N. 0% (0) U.S. Government took civil or criminal action

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	A.Encountered	B.Not encountered (proceed to 30)
29. Communication difficulties or disagreements with the contracting office or contracting officer.	23% (24)	77% (80)

<i>How often did the problem occur?</i>	C. 46% (11)	Rarely - once a year
	D. 42% (10)	Occasionally - once a quarter
	E. 13% (3)	Frequently - once or more a month

<i>How was the problem resolved?</i>	F. 4% (1)	No action was taken
	G. 67% (16)	Orally, informally, and amicably
	H. 8% (2)	Contract was modified
	I. 13% (3)	U.S. Government made a price adjustment
	J. 4% (1)	Issued cure notice or show cause notice
	K. 4% (1)	Contract allowed to lapse without renewal
	L. 0% (0)	Termination for convenience
	M. 0% (0)	Termination for default or cause
N. 0% (0)	U.S. Government took civil or criminal action	

	A.Encountered	B.Not encountered (proceed to 31)
30. Communication difficulties or disagreements with the budget or finance office.	24% (25)	76% (79)

<i>How often did the problem occur?</i>	C. 44% (11)	Rarely - once a year
	D. 44% (11)	Occasionally - once a quarter
	E. 12% (3)	Frequently - once or more a month

<i>How was the problem resolved?</i>	F. 4% (1)	No action was taken
	F. 4% (1)	No action was taken
	G. 76% (19)	Orally, informally, and amicably
	H. 16% (4)	Contract was modified
	I. 0% (0)	U.S. Government made a price adjustment
	J. 4% (1)	Issued cure notice or show cause notice
	K. 4% (1)	Contract allowed to lapse without renewal
	L. 0% (0)	Termination for convenience
	M. 0% (0)	Termination for default or cause
N. 0% (0)	U.S. Government took civil or criminal action	

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31. Communication difficulties or disagreements with other CORs who were also appointed to monitor the contract.

	A.Encountered	B.Not encountered (proceed to 32)
	6% (6)	94% (98)

How often did the problem occur?

2 no response to this part of question.

- C. 33% (2) Rarely - once a year
- D. 33% (2) Occasionally - once a quarter
- E. 0% (0) Frequently - once or more a month

How was the problem resolved?

- F. 17% (1) No action was taken
- G. 83% (5) Orally, informally, and amicably
- H. 17% (1) Contract was modified
- I. 0% (0) U.S. Government made a price adjustment
- J. 17% (1) Issued cure notice or show cause notice
- K. 0% (0) Contract allowed to lapse without renewal
- L. 0% (0) Termination for convenience
- M. 0% (0) Termination for default or cause
- N. 0% (0) U.S. Government took civil or criminal action

32. Communication difficulties or disagreements with superiors over deliverables or how the contractor's performance should be monitored.

	A.Encountered	B.Not encountered (proceed to 33)
	15% (16)	85% (88)

How often did the problem occur?

- C. 44% (7) Rarely - once a year
- D. 44% (7) Occasionally - once a quarter
- E. 13% (2) Frequently - once or more a month

How was the problem resolved?

- F. 25% (4) No action was taken
- G. 75% (12) Orally, informally, and amicably
- H. 13% (2) Contract was amended
- I. 0% (0) U.S. Government made a price adjustment
- J. 0% (0) Issued cure notice or show cause notice
- K. 0% (0) Contract allowed to lapse without renewal
- L. 0% (0) Termination for convenience
- M. 0% (0) Termination for default or cause
- N. 0% (0) U.S. Government took civil or criminal action

For 33 through 40, indicate whether any individuals assisted you with COR contract administration duties. Such individuals often help the COR with monitoring or evaluating the contractor's performance by providing technical oversight, advice, and assistance related to costs, schedule, quality, etc. These individuals are typically referred to as government technical monitors (GTM).

33. Did any GTMs assist you with monitoring contractor performance? *You may check both A and B if both apply.*

- A. 18% (19) Yes - individuals working in other offices assisted me and reported to me
- B. 27% (28) Yes - individuals working under my purview assisted me and reported to me
- C. 61% (63) No - proceed to 43

34. What was the highest overall number of GTMs who assisted you with monitoring contractor performance at any one time?

- A. 31% (13) 1
- B. 50% (21) 2 - 3
- C. 12% (5) 4 - 5
- D. 7% (3) Over 5

35. Did the contracting officer formally appoint any of the GTMs in writing?

- A. 14% (6) Yes - all
- B. 10% (4) Yes - some
- C. 57% (24) No
- D. 19% (8) Not sure

36. Did any of the GTMs receive contract administration training relevant to their duties?

- A. 14% (6) Yes - all
- B. 31% (13) Yes - some
- C. 21% (9) No
- D. 33% (14) Not sure

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37. How often did the GTMs assist with monitoring contractor performance?

- A. 27% (11) Avg. 5.45 Hours a day, or
- B. 49% (20) Avg. 13.35 Hours a week, or
- C. 24% (10) Avg. 10.5 Hours a month

38. What overall work did the GTMs typically assist with? *See questions 17-20 for definitions. Check all that apply.*

- A. 18% (20) Financial
- B. 31% (35) Deliverables monitoring
- C. 29% (32) Compliance monitoring
- D. 22% (24) Project planning

39. Indicate your overall assessment of the work performed by the GTMs.

- A. 64% (27) Highly proficient - required little or no oversight
- B. 31% (13) Moderately proficient - required routine oversight
- C. 5% (2) Needed improvement - required constant oversight

40. What category of employee were the GTMs?

- A. 68% (27) U.S. Government
- B. 10% (4) Personal services contractors
- C. 15% (6) Mix of both
- D. 8% (3) Other (*explain under question 43*)

For 41 and 42, indicate the total number of contracts you were COR on during the stated period.

41. Contracts active during all or part of FY 2000 that had base values of \$100,000 or more at the time of contract award.	A.	B.	C.	D.	E.	F.
	0	1	2	3	4	5 or more
	7% (4)	47% (28)	22% (13)	8% (5)	2% (1)	14% (8)

42. Contracts active within the last 3 years that had base values of \$100,000 or more at the time of contract award.	A.	B.	C.	D.	E.	F.
	0	1	2	3	4	5 or more
	2% (1)	47% (27)	19% (11)	12% (7)	3% (2)	17% (10)

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Questions 43 and 44 invited respondents to provide narrative comments on the questionnaire, identify their most significant challenge in serving as a COR, and to offer potential solutions. OIG has included selected excerpts from these narrative comments within the body of the report.

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APPENDIX B

GROWTH IN DEPARTMENT CONTRACTING ACTIVITY - FY 1990 TO FY 2000

Contracting Activity	FY 1990	FY 2000	Difference
Contract Actions	1,694	4,467	2,773
Obligated Dollars	\$360,688,000	\$1,232,962,000	\$872,274,000

FY 2000 in Detail



Note: Rounded percentages may not add up to 100 percent.
 Source: General Services Administration's (GSA) Federal Procurement Data System Reports for FY 1990 and 2000.

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APPENDIX C



United States Department of State

*Assistant Secretary of State
for Diplomatic Security*

Washington, D.C. 20520

August 26, 2002

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MEMORANDUM

TO: OIG - Mr. Clark Kent Ervin

FROM: DS - Peter E. Bergin, Acting

A handwritten signature in black ink, appearing to read "Peter E. Bergin".

SUBJECT: Draft Report on the Review of the Department of State's Monitoring of
Contractor Performance

Thank you for the opportunity to review the draft. DS recognizes the importance of Contracting Officer and Contracting Officer's Representative duties and agrees with the guidelines in the draft report. Following the systems and procedures in place for monitoring contractor performance is essential for detecting fraud and malfeasance.

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APPENDIX D



United States Department of State

Washington, D.C. 20520

August 28, 2002

MEMORANDUM

TO: OIG/FO - Mr. Clark Kent Ervin

FROM: OBO/RM/HR- Wanda L. Mitchell *[Signature]*

SUBJECT: Response to the Review of the Department of State's Monitoring of Contractor Performance

OBO/RM/HR has reviewed report number AUD/PPA-02-XX, Month 2002 and believe that it is a detailed depiction of COR activity with in the State Department. The suggested recommendations would streamline COR procedures with in the State Department and ensure accuracy and competence.

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APPENDIX E



United States Department of State
Washington, D.C. 20520

Office of the Procurement Executive
State Annex Number Six, Suite 603

August 2, 2002

MEMORANDUM

TO: OIG - Mr. Clark Kent Ervin

THROUGH: A/LM/AQM - Ms. Cathy Read *CR*
 A/EX - Ms. Paula Lader *PL*
FROM: A/OPE - Mr. Lloyd W. Pratsch *LP*

SUBJECT: Draft Audit Report —Monitoring of Contractor Performance

See **OIG Comments**
at the End of
Appendix E

In response to your memo of July 25, we have reviewed the draft report and offer the following comments. We note that all of the report’s recommendations are directed to the A Bureau, even though most of the CORs in the Department work in other bureaus. We believe the report should be more broad in scope, to have the impact that OIG clearly desires. The way to do this is to require actions by the program bureaus in managing their own CORs, not just the A Bureau. Our specific comments are as follows:

- Recommendations 2 and 7 are similar in nature and should be combined into a single, more focused recommendation. We recommend the following as a single recommendation:

See Comment 1

“The Bureau of Administration should direct the Office of Acquisition Management to assign as one of the responsibilities of its new Business Operations Division the oversight of CORs and GTMs, including ensuring that only trained personnel are appointed as CORs and GTMs, adequate resources exist to monitor contractor performance, and proper coordination among CORs/GTMs and contracting officers takes place”

- To be more effective, Recommendation 3 should be clarified to state that the action to be taken should be by all the bureaus with CORs and GTMs, not just contracting activities. All bureaus using contractor support have a responsibility to ensure proper contractor monitoring. We suggest that the recommendation be revised to be read as follows:

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See **OIG Comments**
at the End of
Appendix E

See Comment 2

“The Bureau of Administration’s Office of the Procurement Executive should issue periodic Department Notices and ALDAC’s to remind bureaus and posts of the importance of proper COR and GTM training, recordkeeping, and monitoring of contractor performance, in accordance with established Department policy.”

- Recommendation 4 directs contracting offices other than A/LM/AQM to conduct reviews of their contracts and the COR functions, but it is unclear how these reviews are envisioned. Contracting Officers should constantly review the work being done under contract, not just a periodic assessment. Also, directing other contracting activities to request assistance from A/LM/AQM will not resolve the problem, since these offices should not be awarding contracts unless they have the ability to administer them. If they lack this ability, then they should ask A/LM/AQM to award and administer the contract, if that office has the staffing available to do so. Recommendation 8 is essentially the same as Recommendation 4, and both are similar to Recommendation 3. Therefore, we recommend that Recommendations 3, 4, and 8 be combined into the single recommendation listed above, which, when combined with the revised recommendations that follow, we believe will better serve OIG’s purpose of raising management attention on a Department-wide basis.
- Recommendations 6 and 8 in effect tell Contracting Officers and CORs to do their jobs (namely, that the Contracting Officer should review contractor performance to ensure that contract terms and conditions are being met, and the COR should notify the Contracting Officer of contractor performance problems). The key reason for having a COR is to monitor the contractor’s performance, as described in the COR Handbook. The Department already has guidance in place; program offices and CORs now need to follow it. Only program offices nominate individuals to be CORs or GTMs. Therefore, recommendation should be directed to program offices, instructing them to follow the existing guidance. A single, combined recommendation would be more effective if it were written as follows:

See Comment 3

“The Executive Directors of all regional and functional bureaus that use contractor support should issue instructions to their contracting officer’s representatives and government technical monitors to:

- a) complete mandatory training and refresher training, as required by existing department policy;
- b) adhere to the procedures in the COR Handbook; and
- c) bring to the contracting officer’s attention cases where contract terms and conditions are not being met, and repeated or serious shortcomings in contractor performance.”

- Recommendation 9 is unclear as to its scope. The discussion mentions several possible performance measures, but they are not tied to GPRA and are at least in part controlled by RM, not the COR (payment issues). Each contract should have its own

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performance measures, and the COR's job is to enforce them, working in coordination with the Contracting Officer. It is not feasible for A/OPE to develop performance measures for CORs as a group, other than the standards already articulated in the COR Handbook.

For example, the report's discussion on this subject lists performance measures such as the number of CORs and GTMs. That number is not a valid indicator of performance. Each contract normally would have a COR, and larger contracts might require one or more GTMs. The number of CORs and GTMs is not determinative of whether contractors perform in an acceptable manner or not. The number of deductions, terminations, and civil or criminal actions taken is a function primarily of the specific contractor's performance and cannot be attributed solely to the work of the COR or GTM. Also, reduction in contract disputes as a goal could lead to overpayment of requests for equitable adjustments as much as it could lead to better relations with contractors, so this is not a performance measure that necessarily ensures successful performance.

The key indicators listed in the report that would be beneficial are the amount of procurement activity per COR or GTM (number of contacts managed by each COR or GTM) and completion of training by CORs and GTMs. The training issue is addressed in our proposed revision of Recommendations 6 and 8 above. For Recommendation 9, we recommend that it be rewritten as follows:

“The Executive Directors of all regional and functional bureaus that use contractor support should ensure that each COR and GTM is assigned only a reasonable number of contracts to monitor. Contracting activities should notify the supervisor of the COR or GTM whenever it appears that a single COR or GTM has been assigned too many contracts to monitor in an effective manner.”

We appreciate the opportunity to comment on the draft report. Staff questions may be directed to Rob Lloyd on x61690.

OIG COMMENTS

Comment 1- OIG believes that the Bureau of Administration's suggestions concur with OIG's intent of establishing more oversight of persons with contractor monitoring duties. However, OIG believes it is also necessary to centralize the records on those who are delegated contractor monitoring duties in order to achieve better oversight. Therefore, the bureau's comments were incorporated into Recommendation 1, as appropriate, with the pertinent records being provided to the bureau.

Comment 2- OIG believes that the Bureau of Administration's suggestions do not fully address the need for effective coordination between those who are delegated contractor performance monitoring duties and contracting entities. Although OIG's Recommendation 2 remains unchanged, some of the bureau's suggestions were incorporated into Recommendation 4, as appropriate.

Comment 3- OIG agrees that each program bureau and diplomatic mission should be required to manage its own CORs. However, the responsibility for ensuring that bureaus and missions adhere to Department policies and procedures for contractor performance belongs to the Bureau of Administration. Therefore, the bureau's suggestions were incorporated into Recommendation 4, as appropriate.

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