

AUDIT ON THE EFFECTIVENESS OF THE
OFFICE OF THE COMPTROLLER OF THE
CURRENCY'S PROCUREMENT OPERATIONS

OIG-00-120

AUGUST 28, 2000



Office of Inspector General

United States Department of the Treasury



DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

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OFFICE OF
INSPECTOR GENERAL

MEMORANDUM FOR JOHN D. HAWKE JR., COMPTROLLER
OFFICE OF THE COMPTROLLER OF THE CURRENCY

FROM: Dennis S. Schindel *Dennis Schindel*
Assistant Inspector General for Audit

SUBJECT: Audit Report - *Effectiveness of the Office of
the Comptroller of the Currency's Procurement
Operations*

This memorandum transmits the subject final audit report. This report is based on audit work performed from April 1999 through March 2000 as a result of reported procurement weaknesses identified during a prior Office of Inspector General inquiry and recent reviews performed by the Department and other independent entities.

Our review revealed that the Office of the Comptroller of the Currency (OCC) had taken positive steps to improve its procurement practices and policies. OCC officials: reorganized the Acquisition Services, have taken or planned actions to correct identified weaknesses, and began developing a new automated system to improve its internal controls and financial management. While these steps are positive, OCC should gather and analyze data on prior labor-hour contracts and determine whether a fixed-price or labor-hour contract is the most cost effective to use in the future for the same services. Our findings are summarized in the Overview and explained in further detail in the Audit Results sections of the report. Also, the recommendation we are making is contained in the Audit Results section of the report.

Your office concurred with our findings and recommendation. We summarized the actions to implement the recommendation in the Audit Results section of the report and included a complete text of the response to our report as Appendix 3.

We appreciate the cooperation and courtesies extended to our staff during the audit. If you wish to discuss this report, you may contact me at (202) 927-5400 or a member of your staff may contact Thomas E. Byrnes, Director, Program Audits at (202) 283-1064.

Attachment

Overview

This report presents the results of the Office of Inspector General's (OIG) audit to determine whether the Office of the Comptroller of the Currency's (OCC) procurement practices and policies were effective. We conducted this audit as a result of a prior OIG inquiry that identified procurement weaknesses. Audit coverage was initially planned to test all aspects of OCC's procurement operations. However, prior to and during this audit, OCC received extensive reviews from the Department's Office of Procurement (OP) and contractors. To prevent duplicative efforts, we limited our testing and utilized the reported results by OP and the contractors, as well as OCC's reported progress on implementing corrective actions.

Our audit revealed that OCC took positive actions to improve its procurement operations. OCC reorganized Acquisition Services (AQS) and had taken or planned actions to implement recommendations resulting from the external reviews. For example, OCC began to recompetitively question contracts to eliminate the appearance of improprieties and planned to provide staff with additional training on reported procurement issues. Additionally, OCC was in the process of replacing its automated system to improve internal controls and financial management. While management was committed to making the procurement operations effective, officials need to gather and analyze data on prior labor-hour contracts and determine whether a fixed-price or labor-hour contract is the most cost effective to use in the future for the same services. Since the majority of labor-hour contracts were for the bank examination services and the contracts were primarily awarded in 1998, OCC should now have the experience to facilitate the use of fixed-price contracts for this service.

Background

OCC was established in 1863 as an independent bureau of the Department of the Treasury and is the oldest Federal financial regulatory body. It is responsible for regulating and supervising the national banking system. OCC also regulates and supervises the federally licensed branches and agencies of foreign banks doing business in the United States.

OCC's mission is to charter, regulate and supervise national banks to ensure a safe, sound and competitive national banking system that supports the citizens, communities and economy of the United States. To accomplish this mission, OCC uses its power to: issue rules and regulations on the banks' practices in lending and investment and corporate structure; approve or deny applications for new charters or changes in the banking structure; examine banks; and take action against banks engaged in unsound banking practices.

As a Federal agency, all OCC procurement actions, regardless of whether the affected procurement transactions are funded by appropriated or non-appropriated funds, shall be exercised in accordance with the applicable regulations of the:

- *Federal Property and Administrative Services Act of 1949*;
- *Office of Federal Procurement Policy*;
- *Federal Acquisition Regulation (FAR)*, 48 *Code of Federal Regulations* (CFR) Chapter 1;
- *Federal Property Management Regulation*, 41 CFR Chapter 101;
- *Federal Information Resources Management Regulation*, 41 CFR Chapter 201; and
- *Department of the Treasury Acquisition Regulation*.

A list of abbreviations used in this report is included as *Appendix 2*.

Objective, Scope and Methodology

The objective of the audit was to determine the effectiveness of OCC's procurement operations. Specifically, we evaluated whether OCC was in compliance with established regulations that were applicable to OCC's contract and procurement operations. We performed our fieldwork from April 1999 to March 2000 in OCC's and OP's Washington, DC offices.

To accomplish the audit objectives we conducted interviews with appropriate personnel within OCC and OP. We also reviewed: (1) OCC's procurement practices and the policies and procedures used to implement them; (2) OCC's procurement inventory; and (3) prior reports of reviews conducted by internal, external, and private organizations. We focused on contract and procurement data for 1998. Because OCC received multiple reviews on its procurement operations, we limited our testing and utilized the reported results of these reviews, particularly OP's assessment of AQS' procurement operations from January 1, 1998 through June 1, 1999.¹

We conducted our work in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States, and included such audit tests as were deemed necessary.

¹ OP's review included determining how OCC was resolving issues raised in internal OCC legal reviews, OIG reports, prior OP reports and other independent entities.

Audit Results

RECENT EFFORTS TO IMPROVE THE PROCUREMENT OPERATIONS

OCC's procurement practices and policies improved as a result of management's commitment and actions taken during this audit. This commitment was demonstrated by the implemented and planned actions to address weaknesses identified from prior reviews (see *Appendix 1*). Two implemented actions, although not specifically recommended from the reviews, were the: (1) reorganization of AQS, which is responsible for procuring goods and services; and (2) implementation of a comprehensive review process to immediately identify and correct problems. Examples of actions to address recommendations are: contracts projecting the appearance of improprieties were being recompeted; additional staff training on reported procurement issues was/will be provided; wage determinations were obtained; and applicable practices and policies were/will be revised. Also, OCC was in the process of replacing its automated system to improve internal controls and financial management. With the full implementation of all recommended actions and management's continued commitment, OCC will better assure that its procurement operations comply with applicable regulations.

FIXED-PRICE CONTRACTS SHOULD BE AWARDED WHEN POSSIBLE

OCC needs to consider using a less costly procurement tool, the fixed-price contract for many of its procurement actions. As of December 1, 1998, 46 percent (50 of 109) of OCC's contracts were labor-hour contracts. These contracts represented 27 percent (\$39 million of \$147 million) of the 109 contracts' total life cycle cost. A labor-hour contract places little or no risk on the contractor and maximum risk on the Government; thus, OCC must closely monitor its contractor's activity. According to OCC management, labor-hour contracts were used because data was not available to determine a reasonable overall cost for the desired service.

FAR subpart 16.602 describes a labor-hour contract as a variation of a time-and-materials contract. This type of contract provides no positive profit incentives to the contractor for cost control or labor efficiency. Therefore, labor-hour contracts must be monitored far more closely than fixed-price types. The Government must insure that the contractor is indeed providing its best efforts, judiciously expending funds and controlling costs. For services that were previously provided, FAR subpart 37.602-5 emphasizes that agencies shall rely

on the experience gained from the prior contract to facilitate the use of fixed-price contracts.

The extensive use of labor-hour contracts can be reduced because 96 percent (48 of 50) of these contracts, totaling \$38 million, were for the same service – bank examinations. OP’s August 19, 1999, *Procurement Staff Assistance Visit of the Office of the Comptroller of the Currency, Washington, DC* report recommended the use of a fixed-price type contract to the maximum extent possible. AQS’ response to this report, dated November 3, 1999, stated that all contracts and requirements were reviewed and only one labor-hour contract would be converted to fixed-price. AQS further stated that all proposed labor-hour contracts will be scrutinized and converted to fixed-price contracts when practical. According to an OP official, OP will continue to provide on-site oversight and training to resolve this labor-hour contract issue.

OCC management agreed that fixed-price type contracts were more desirable, and advised the OIG that information was not available at the time the contracts were issued to ascertain a realistic cost for the services. However, since the majority of labor-hour contracts for the same type of service were awarded in 1998, historical data should now be available. This data needs to be gathered and analyzed to facilitate the use of fixed-price contracts.

Recommendation

The OCC Senior Deputy Comptroller for Administration and Chief Financial Officer should direct AQS personnel to gather and analyze data on the experience gained from prior labor-hour contracts and determine whether awarding a fixed-price or labor-hour contract is the most cost effective to use in the future for the same services. Priority should be placed on evaluating previously contracted bank examination services since the majority of labor-hour contracts were for this service and the contracts were primarily awarded in 1998.

Management Response and OIG Comment

OCC concurred with the recommendation. OCC’s Senior Deputy Comptroller for Administration and Chief Financial Officer directed the AQS Director to establish procedures that provide for gathering and analyzing data from experience on prior contracts when a new labor-hour contract is contemplated. These procedures will be issued by September 30, 2000.

Contract type will be addressed at a point where action can more easily be taken to allow the use of fixed-price contract types. OCC developed contract review

checklists that address the appropriateness of labor-hour contracting and will revise them by the end of the year to specifically address AQS review of prior contract experience. Additionally, new contracts for bank examination services were issued on a fixed-price task order basis and existing contracts for these services are being revised to provide for fixed-price task orders. Finally, OCC met with its major internal client to explain the need for fixed-price contracts and provided training on labor-hour contracts to all AQS staff.

The OIG concurs with the above actions.

PROCUREMENT REVIEWS

During this audit, OP performed a comprehensive review covering 64 procurement areas, and provided oversight and training during subsequent site visits. Also, the OIG and contractors performed reviews. The reviews resulted in recommendations that addressed the need to improve internal controls and policies used for procurement actions, as well as procurement-related financial management. Below is a list of the more significant reviews OCC had on its procurement operations and the major identified weaknesses. In response to our audit, OCC stated that the weaknesses have been addressed and provided information on the corrective actions (see *Appendix 3*).

Reviews

- OIG, *Report of Investigation Case Number 95-3-240-1/8* (issued April 8, 1999)
- OIG, *Audited Financial Statements of the Office of the Comptroller of the Currency for Calendar Year 1998* (OIG-99-134; issued September 30, 1999)
- PricewaterhouseCoopers, report on AQS (issued April 1998)
- OP, *Departmental Review of Acquisition Services* (issued June 9, 1998)
- OP, Procurement Staff Assistance Visit of the Office of the Comptroller of the Currency, Washington, DC (issued August 19, 1999)
- On-going site visits by OP

Reported Weaknesses

- Several contracts to one vendor appeared split to avoid competition.
- Several contracts contained provisions that could be perceived as personal services.
- Wage determinations under the *Service Contract Act* were not always obtained to ensure fair wages are paid to applicable contractor's employees.
- Cost and price analysis was not adequate to provide assurance of price reasonableness.
- Determination of a contractor's ability to perform a contract was not always adequate.
- Contract closeouts were untimely on major contracts and not performed on simplified acquisitions.
- Cost saving method of simplified acquisition was not always used resulting in orders over \$2,500 not competed and micro-purchases (orders at or below \$2,500) not procured via the purchase card.
- Interagency agreements and other procurement instruments were not adequately documented.
- Ratification of unauthorized commitments was not always properly documented.
- Vouchers were not forwarded to the Contracting Officer Technical Representatives for formal payment approval.
- Supervision was not adequate, resulting in untimely account reconciliation, accounts payable backlogs, and lack of capitalization guidance for bulk property and equipment purchases.
- Vendor payments were not issued timely.

ABBREVIATIONS

AQS	Acquisition Services
CFR	Code of Federal Regulations
FAR	Federal Acquisition Regulations
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General
OP	Department of the Treasury, Office of Procurement

MANAGEMENT RESPONSE



MEMORANDUM

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

To: Dennis S. Schindel, Assistant Inspector General for Audit

From: John D. Hawke, Jr., Comptroller of the Currency

Date: July 7, 2000

Subject: Draft Audit Report - Procurement Operations

We have reviewed your draft audit report titled "Effectiveness of the Office of the Comptroller of the Currency's Procurement Operations." You requested our comments on the findings and recommendation.

The report recommends that the OCC Senior Deputy Comptroller for Administration and Chief Financial Officer direct Acquisitions (AQS) personnel to gather and analyze data on the experience gained from prior labor-hour contracts and determine whether awarding a fixed-price or labor-hour contract is the most cost effective to use in the future for the same services and place priority on evaluating previously contracted bank examination services since the majority of labor-hour contracts were for this service and the contracts were primarily awarded in 1998.

OCC concurs with the recommendation. On June 27, the Senior Deputy Comptroller for Administration and Chief Financial Officer directed the Acquisition Services Division Director to establish procedures that provide for gathering and analyzing data from experience on prior contracts whenever a new labor hour contract is contemplated. These procedures will be issued by September 30, 2000.

OCC has already taken corrective action to address this issue in response to a Department of the Treasury review. The new National Bank Examiner (NBE) contracts have been issued on a fixed price task order basis and the existing NBE contracts are being revised to provide for fixed price task orders. We are improving our acquisition planning process so that contract type will be addressed earlier and at a point where action can more easily be taken to allow use of fixed price contract types. We have developed contract review checklists that address the appropriateness of labor hour contracting and will revise them by the end of the year to specifically address AQS review of prior contract experience. We have met with our major internal client to explain the need for fixed price contracts. Refresher training on labor-hour contracts was conducted for all AQS staff.

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The report also refers to efforts we have made to improve procurement operations in general terms. Appendix 1, however, details the weaknesses found in prior reviews but does not detail our corrective actions. To be sure that there is no misunderstanding about actions we have taken to address prior findings, we would like to take the opportunity to provide you current, specific information on our corrective actions for inclusion in your report. Following are your statements of weaknesses as reported in prior reviews along with our statements of corrective action.

Several contracts to one vendor appeared split to avoid competition.

As your report indicates, we have begun to re-procure requirements to eliminate the appearance of impropriety. New competitive contract vehicles are planned to be in place by the end of this calendar year.

Several contracts contained provisions that could be perceived as personal services.

We have taken steps to ensure that safeguards are built into new and existing contracts. Acquisitions (AQS) is holding discussions with clients about the personal services issues associated with these contracts and the need to convert these contracts from fixed-price labor-hour contracts to firm, fixed-price, performance-based service contracts. We have modified the subject contracts to add additional preventive measures, such as on-site contractor project managers, with respect to personal services.

AQS reviews all procurement actions over \$25,000 prior to award and performs a sample review of those under \$25,000. We have strengthened our internal review process by providing training on personal services issues to the AQS staff. To better document and improve the overall quality of our reviews, we are developing a series of formal contract and simplified acquisition checklists to ensure that reviews are consistent, comprehensive, and complete. For all actions that require services, the checklists will include a series of questions that will be based on the guidance on personal services provided in FAR 37.104.

Wage determinations under the Service Contract Act were not always obtained to ensure fair wages are paid to applicable contractor's employees.

AQS has modified the existing contracts for depot maintenance and computer operators to include wage determinations and will, as necessary, request wage determinations for all new procurement actions. AQS provided refresher training on the Service Contract Act (SCA) wage determination to all AQS staff. When wage determinations are not obtained for contracts involving services, contracting officers (CO) have been instructed to document the procurement file to explain the grounds for the exemption. The checklist we develop for service contracts will require reviewers to verify that a wage determination has been obtained or the file has been documented to explain why not.

Cost and price analysis was not adequate to provide assurance of price reasonableness.

Before the end of the year, AQS will provide refresher training on price analysis and price/cost analysis to all AQS staff. AQS reviews all procurement actions over \$25,000 (simplified acquisitions, contracts, and interagency agreements) at both the pre-solicitation and pre-award stages. During the pre-award reviews, reviewers ensure that an adequate price analysis has been performed and that an acceptable determination of price reasonableness has been made. AQS is also adding several price analysis items to the contract review checklist. By doing so, AQS will ensure that

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reviewers consider all price analysis issues during their reviews.

Determination of a contractor's ability to perform a contract was not always adequate.

The AQS staff received training on the requirements for responsibility determinations. AQS will add responsibility determinations to the contract review checklist to ensure that contracting officers have made an appropriate responsibility determination. A copy of the completed checklist will be kept in the contract file to document that responsibility determination issues were addressed. Finally, AQS is developing a baseline of acceptable documentation and will disseminate it to all AQS staff shortly.

Contract closeouts were untimely on major contracts and not performed on simplified acquisitions.

By September 30, we expect to amend and reissue Procurement Instruction Notice (PIN) 98-2 to provide guidance on entering closed contracts into Sacons (OCC's contract database). By calendar year end, we will create a program to identify completed contracts that have not been closed out. At the end of last year, we had an inventory of 316 contracts. Of these, 160 had been closed; 91 were active; and 65 were inactive and required closeout. We have funds in this year's budget to allow us to contract for help with our contract closeouts. We have identified sources and are proceeding with a procurement action to obtain this support. We will prepare and issue guidance for closing simplified acquisitions by September 30.

Cost saving method of simplified acquisition was not always used resulting in orders over \$2,500 not competed and micro-purchase (orders at or below \$2,500) not procured via the purchase card.

AQS continues to review all Washington office procurements over \$25,000 and perform a sample review for those under \$25,000. Reviewers discuss all review findings with purchasing agents to ensure deficiencies are understood and corrected. AQS is developing a comprehensive checklist specifically for simplified acquisitions. This checklist will ensure that reviewers consider all simplified acquisition requirements. Our workload tracking system also flags instances where simplified acquisition procedures were not used under \$25,000. Our checklist includes an item that requires the CO to document why any purchase under \$2,500 wasn't returned to the requester for processing on the purchase card. Requisitions under \$2,500 are generally returned to the requestor for processing.

Interagency agreements and other procurement instruments were not adequately documented.

AQS and Legal are now required to review all interagency agreements (IA) before issuance to ensure they comply with all applicable regulations. AQS is developing a checklist specifically for interagency agreements that will allow reviewers to validate regulatory compliance. The checklist will include items to ensure the SOW is adequate, the price reasonableness determination acceptable, and the decision-making process adequately documented. A copy of the checklist will be kept in the IA file. To improve quality, a senior procurement analyst has been assigned to process most interagency agreements.

Ratification of unauthorized commitments was not always properly documented.

AQS complies with all requirements of PIN 98-3, Ratifications, and FAR Part 1 when processing unauthorized commitments. To ensure consistency and completeness, a senior procurement analyst has been assigned to process all ratifications. In addition, a training and communication program

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is underway to reduce the number of unauthorized commitments.

Vouchers were not forwarded to the Contracting Officer Technical Representative for formal payment approval.

Financial Management (FM) forwards all invoices to Contracting Officer's Technical Representatives (COTR) for formal payment approval, and has done so for at least the past two years. We have recently initiated a series of recurring meetings between FM and AQS for the purpose of enhancing coordination between our two functional areas. As a result of our most recent meeting, we have arranged to begin forwarding invoices through contracting officers as well as COTRs for formal approval prior to payment. We plan to begin this new process no later than the beginning of August.

Supervision was not adequate, resulting in untimely account reconciliation, accounts payable backlogs, and lack of capitalization guidance for bulk property and equipment purchases.

FM has reengineered its internal accounts payable processes and is continuing to monitor, control, and improve upon the workflow. We continue using our existing and previously documented capitalization guidance for bulk property and equipment purchases. We have reengineered the OCC budget process to incorporate budgeting for capital purchases as well as operating expenses. This change has clarified the funds control issues concerning capital investments.

Vendor payments were not issued timely.

Our reengineering processes have resulted in no invoice backlog in the over 90 days aging category. This is a strong indication that the timeliness of vendor payments has significantly improved. FM has maintained this level of timeliness for the past five consecutive months.

Thank you for the opportunity to review and comment on your draft report.

MAJOR CONTRIBUTORS TO THIS REPORT

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