Improvements Are Needed in Planning and Awarding Internal Revenue Service Contracts to 8(a) Businesses

December 1999

Reference Number: 2000-10-017

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

7 = Predecisional staff recommendations or suggestions to agency decision makers

INSPECTOR GENERAL
for TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

December 28, 1999

MEMORANDUM FOR COMMISSIONER ROSSOTTI

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Improvements Are Needed in Planning and Awarding Internal Revenue Service Contracts to 8(a) Businesses

This report presents the results of our review of the Internal Revenue Service's (IRS) use of 8(a) contractors. We reviewed 25 8(a) contract files to determine whether the IRS was effectively using the 8(a) program to achieve organizational goals and whether sufficient controls exist to prevent fraud, waste, and abuse within the program.

In summary, we found that although the IRS Procurement function has actively promoted and worked with 8(a) contractors to provide valuable services to the IRS, improvements are needed in planning and awarding 8(a) contracts.

We believe the Assistant Commissioner (Procurement) should ensure all costs of an acquisition are considered when determining whether to compete the contract and continue to discourage the use of letter contracts. In addition, the Assistant Commissioner (Procurement) should ensure that documentation is obtained to certify that the 8(a) contractors are in compliance with subcontracting limitations.

In commenting on a draft of this report, IRS management agreed to take corrective action on two of the three recommendations. Management believes our recommendation for ensuring all costs of an acquisition are considered when determining whether to compete a contract is unnecessary. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

Table of Contents

Executive Summary

The Internal Revenue Service (IRS) supported the 8(a) business community by awarding over $36 million to 8(a) contractors during Fiscal Year 1998. An 8(a) firm is a Small Business Administration (SBA) approved small business that is owned and controlled by socially and economically disadvantaged American citizens. These 8(a) contractors have assisted the IRS in obtaining goods and services necessary to achieve organizational goals. However, the controls over the award and administration of 8(a) contracts could be improved.

The overall objective of the review was to evaluate whether the IRS is effectively using the 8(a) program to achieve organizational goals and whether sufficient controls exist to prevent fraud, waste, and abuse within the program. Due to ongoing contract investigations by the Treasury Inspector General for Tax Administration's Office of Investigations, the Office of Audit did not conduct its planned tests of management controls regarding potential fraud, waste, or abuse within the program. At the conclusion of these investigations, any control weakness detected by the Office of Investigations will be addressed in a separate report.

Results

While the 8(a) contractors provide valuable services to the IRS, additional emphasis is needed in planning and awarding 8(a) contracts. We also determined that improvements are needed in documenting 8(a) contractor compliance with federal subcontracting limitations.

Additional Emphasis is Needed on Awarding 8(a) Contracts

During our review of 25 contracts, we identified 5 instances in which we believe the process for acquiring the goods and/or services could be improved. The Federal Acquisition Regulation[1] (FAR), provides that 8(a) contracts are awarded on a competitive or non-competitive basis. These regulations further provide that contracts must be competed if the anticipated value over the life of the contract is greater than $3 million for acquisitions other than manufacturing.

We determined there were multiple purchase orders issued to one contractor prior to awarding the contractor two $3 million contracts. The total value of both contracts and associated purchase orders was in excess of $6.4 million, which exceeded the $3 million

[1] General Servs. Admin, ET AL., Federal Acquisition Reg. ("FAR"), 48 C.F.R. parts 1-52 1997

competition threshold. The purchase orders and contracts were for similar services and were awarded within a four-month period. Procurement management decided to continue with separate procurements because the time involved in combining and reorganizing the procurement was too lengthy and would not result in any cost or programmatic savings.

We further determined that the terms and conditions of contracts were not timely established for three letter contracts. A letter contract is a written preliminary contractual instrument that authorizes the contractor to commence work immediately. A letter contract must be superseded by a definitive contract. These letter contracts took an average of 11 months to establish the terms and conditions, even though regulations provide that the terms and conditions should be completed within 180 days after the date of the letter contract or before completion of 40 percent of the work to be performed. In 1 instance, the contract terms and conditions were negotiated 16 months after the letter contract was awarded. Although the Contracting Officer (CO) was successful in negotiating a $1.2 million credit for prior purchases, the IRS was unable to fully use the negotiated rates. It is anticipated that the IRS will 7-------------------------------------
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Improvements Are Needed in Documenting 8(a) Contractor Compliance With Federal Limitations on Subcontracting

The COs did not obtain documentation on how the 8(a) contractors planned to achieve compliance with federal limitations on subcontracting. A prior audit report[2] identified a similar concern that IRS management relied on the SBA to evaluate the contractor's compliance with federal limitations and additional controls were needed to ensure 8(a) contractor compliance with federal limitations. Only 1 of the 25 contracts we reviewed had documentation to support the contractor's plan to comply with federal limitations. In reviewing the subcontracting documentation for this contract, it was questionable as to whether the 8(a) prime contractor would perform 50 percent of the work.. Regulations provide that at least 50 percent of the labor dollars must go to the 8(a) prime contractor for service type contracts. Failure to comply with subcontracting limitations could result in termination of the contractor from the 8(a) program.

Summary of Recommendations

The Assistant Commissioner (Procurement) should ensure all costs of an acquisition are considered when determining whether to compete the contract and continue to discourage the use of letter contracts. In addition, the Assistant Commissioner (Procurement) should

[2] *Review of Selected IRS Contracts with an 8(a) Contractor* (Reference Number 140402, dated March 11, 1993)

ensure that documentation is obtained to certify that the 8(a) contractors are in compliance with subcontracting limitations.

Management's Response: IRS management believes the recommendation that the Assistant Commissioner (Procurement) should ensure all costs of an acquisition are considered when determining whether to compete the contract is unnecessary. Management took this position because we identified only one instance of possible noncompliance with the competition requirements. In addition, IRS management believes they complied with competition requirements in the cited exception case.

IRS management also disagreed with discouraging the use of letter contracts, but will encourage the definitization of contracts within the recommended time frames. As a result, Procurement agreed to revise current Procurement Policies and Procedures to include a review to identify all letter contracts that have exceeded, or appear likely to exceed, the limits for definitization recommended in the FAR.

Additionally, Procurement management agreed to revise current policy and procedures to require COs to address subcontracting limitations in the price negotiation memorandum for each 8(a) contract. A complete copy of management's response to the draft report is included as Appendix IV.

Office of Audit Comment: While we identified only one instance of apparent noncompliance, we believe it indicates a potential management control weakness. In this regard, the intent of our recommendation is to address situations where the value of the purchase orders issued are not considered in the total estimated value of the contract when deciding whether to compete the contract. It is our opinion that the value of all procurement actions to a contractor for the same, or similar, goods and services should be considered when determining whether the acquisition meets the competitive requirement.

Objective and Scope

The overall objective of this review was to evaluate whether the IRS is effectively using the 8(a) program to achieve organizational goals and whether sufficient controls exist to prevent fraud, waste, and abuse within the program.

The overall objective of this review was to evaluate whether the Internal Revenue Service (IRS) is effectively using the 8(a) program to achieve organizational goals and whether sufficient controls exist to prevent fraud, waste, and abuse within the program. The audit work was performed during the period of October 1998 through July 1999 at the IRS' Procurement and program offices in the Washington, D.C. area. We selected a judgmental sample of 25 of 150 8(a) contracts with activity during Fiscal Years (FY) 1995 through 1998. Due to ongoing contract investigations by the Treasury Inspector General for Tax Administration's (TIGTA) Office of Investigations, the Office of Audit did not conduct its planned tests of management controls regarding potential fraud, waste, or abuse within the program. At the conclusion of these investigations, any control weakness detected by the Office of Investigations will be addressed in a separate report.

This audit was performed in accordance with *Government Auditing Standards*. Details of our objective, scope, and methodology are presented in Appendix I. Major contributors to this report are included in Appendix II.

Background

The SBA has an 8(a) business development program designed to help socially and economically disadvantaged American citizens compete for federal contracts.

The Small Business Administration (SBA) has an 8(a) business development program designed to help socially and economically disadvantaged American citizens compete for federal contracts. Businesses qualifying for acceptance into the SBA 8(a) program must be a small business; be unconditionally owned and controlled by socially and economically disadvantaged American citizens; and demonstrate the potential for success. A small business is classified depending on the industry, according to the average number of employees or the average sales volume for three years. Once the SBA has approved a contractor as qualified for the 8(a) program, a contractor can stay in the program for nine years. However, a contractor can graduate earlier if the 8(a) contractor substantially achieves the targets, objectives, and goals in its business plan.

Generally, 8(a) contracts must be competed if the value over the life of the contract is greater than or equal to $3 million.

The Federal Acquisition Regulation[1] (FAR), provides that 8(a) contracts are awarded on a competitive or non-competitive basis. The contracting agency may identify a specific contractor independently, through the 8(a) contractor's self-marketing efforts, or the SBA's marketing efforts. Generally, 8(a) contracts must be competed if the value over the life of the contract is greater than or equal to $3 million.

The Department of the Treasury and its bureaus set small business contracting goals each fiscal year. The IRS set its 8(a) contracting goals at 6 percent and 5 percent of the total IRS procurements for FY 1998 and FY 1999, respectively. At the end of the fiscal year, the IRS assessed its achievements based on data maintained in the Treasury Procurement Data System.

Results

The IRS helped promote socially and economically disadvantaged American citizens by awarding over $36 million to 8(a) contractors during FY 1998. These 8(a) contractors have assisted the IRS in obtaining goods and services necessary to achieve its organizational goals.

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[1] General Servs. Admin, ET AL., Federal Acquisition Reg. ("FAR"), 48 C.F.R. parts 1-52 1997

The IRS Procurement function has been widely recognized for its accomplishments in promoting the 8(a) program.

The IRS Procurement function has been widely recognized for its accomplishments in promoting the 8(a) program. In 1996, the IRS Commissioner recognized the innovative approaches and increased awareness of the Small Business Program within the IRS. Recently, the IRS' Small Business Specialist received an award from the Secretary of the Treasury as the Small Business Advocate of the Year. In addition, the Department of the Army recognized the IRS as an acquisition reform success story for its open communication with 8(a) contractors in improving partnerships.

Due to ongoing contract investigations by the TIGTA's Office of Investigations, the Office of Audit did not conduct its planned tests of management controls regarding potential fraud, waste, or abuse within the program. At the conclusion of these investigations, any control weakness detected by the Office of Investigations will be addressed in a separate report.

Although the IRS Procurement function has actively promoted and worked with 8(a) contractors to provide valuable services to the IRS, improvements are needed in documenting and awarding 8(a) contracts. Specifically:

- Additional emphasis is needed on awarding 8(a) contracts.
- Improvements are needed in documenting 8(a) contractor compliance with federal limitations on subcontracting.

Additional Emphasis is Needed on Awarding 8(a) Contracts

In five instances, we believe the process for acquiring the goods and/or services could be improved.

Acquisition planning and the award of 8(a) contracts can be improved. In 5 of the 25 contracts we reviewed, we believe the process for acquiring the goods and services could be improved.

The FAR provides that 8(a) contracts are awarded on a competitive or non-competitive basis. However, the contract must be competed if the anticipated value over the life of the contract is greater than $3 million for acquisitions other than manufacturing.

We determined there were multiple purchase orders issued to the same contractor prior to awarding the contractor two $3 million contracts. The value of these purchase orders was not taken into consideration in the total estimated value of the individual contracts awarded to that contractor. Procurement management informed us that issuing purchase orders prior to award is a common practice in their organization because the needs of the customer dictate time frames. The purchase orders and contracts were for similar services and were awarded within a four-month period.

The requisitions for the two contracts were received by the IRS Procurement function approximately a month apart. Upon receipt, Procurement personnel did not identify these requirements as related. After further discussions, Procurement management determined that these two contracts were for similar services. However, they decided to continue with separate procurements because the time involved in combining and reorganizing the procurement was too lengthy and would not result in any cost or programmatic savings. The total value of both contracts and associated purchase orders was in excess of $6.4 million, which exceeded the competition threshold.

Letter contracts within our sample took an average of 11 months to establish the terms and conditions.

Additionally, we determined the IRS awarded three non-competitive letter contracts that took an average of 11 months to establish the terms and conditions. A letter contract is a written preliminary contractual instrument that authorizes the contractor to commence work immediately. A letter contract must be superseded by a definitive contract. The FAR provides that the process of definitizing a contract (setting terms and conditions) should be completed within 180 days after the date of the letter contract or before completion of 40 percent of the work to be performed.

Although proper approval by the Assistant Commissioner (Procurement) was obtained for definitization extensions, the open-ended arrangement of a letter contract places the risk of excessive costs largely on the IRS. In one instance, most of the funds associated with the contract had been obligated and paid at the time of contract definitization, which was 16 months after the letter contract was issued. As a result, the contractor had performed work and invoices were paid prior to establishing the terms and conditions of the contract. Once the Contracting Officer (CO) negotiated the terms and conditions of the contract, there was a $1.2 million credit owed to the IRS for purchases made under the letter contract.

Although the CO was successful in negotiating a $1.2 million credit for prior purchases, the IRS was unable to fully use the negotiated rates.

Although the CO was successful in negotiating a $1.2 million credit for these prior purchases, the IRS was unable to fully use the negotiated rates. Due to unforeseen circumstances, the IRS did not purchase the anticipated volume of equipment. Because the anticipated volume of equipment that helped establish the negotiated rates did not materialize, it is anticipated that the IRS will 7-------------------------------------
7-- The contract specialist stated that if the terms and conditions of the contract could have been established earlier, the IRS would have realized the benefit from the negotiated rates sooner.

Ensuring that the anticipated value over the life of the contract does not exceed the non-competitive threshold and timely negotiating terms of a contract are critical in protecting government resources.

Recommendations

1. The Assistant Commissioner (Procurement) should ensure that all costs associated with a planned acquisition are considered when determining whether to compete the contract (competition thresholds have been exceeded).

Management's Response: IRS management believes the recommendation that the Assistant Commissioner (Procurement) should ensure all costs of an acquisition are considered when determining whether to compete the contract is unnecessary. Management took this position because we identified only one instance of possible noncompliance with the competition requirements. In addition, IRS management believes they complied with competition requirements in the cited exception case.

Office of Audit Comment: While we identified only one instance of apparent noncompliance, we believe it indicates a potential management control weakness. In this regard, the intent of our recommendation is to address situations where the value of the purchase orders issued are not considered in the total estimated value of the contract when deciding whether to compete the contract. In our opinion, the value of all procurement actions to a contractor for the same, or similar, goods and services should be considered when determining whether the acquisition is a competitive requirement.

2. The Assistant Commissioner (Procurement) should discourage the use of letter contracts, and in those instances where letter contracts are issued, the terms and conditions of the contract should be timely established.

Management's Response: IRS management also disagreed with discouraging the use of letter contracts, but will encourage the definitization of contracts within the recommended time frames. As a result, Procurement management agreed to revise the Policy and Procedure on "Procurement Reviews" to include a review to identify all letter contracts that have exceeded, or appear likely to exceed, the limits for definitization recommended in the FAR. A copy of the review report will be provided to the Assistant Commissioner (Procurement).

Improvements Are Needed in Documenting 8(a) Contractor Compliance With Federal Limitations on Subcontracting

We determined that COs did not obtain documentation on how the 8(a) contractors were going to achieve compliance with federal limitations on subcontracting.

A prior audit report[2] identified similar concerns that IRS management relied on the SBA to evaluate the contractor's compliance with federal limitations and that additional controls in this area are needed to ensure 8(a) contractor compliance with federal limitations. Procurement management responded that additional guidance was provided in a policy and procedure memorandum to the staff to obtain substantiation from the 8(a) contractor that it will comply with federal limitations on subcontracting.

Only 1 of the 25 contracts we reviewed had documentation to support the contractor's plan to comply with federal limitations.

However, the COs are not adhering to the policies and procedures. We determined that the COs are not obtaining documentation from the contractors explaining how they plan to achieve compliance with federal limitations on subcontracting. Only 1 of the 25

[2] *Review of Selected IRS Contracts with an 8(a) Contractor* (Reference Number 140402, dated March 11, 1993)

contracts we reviewed had documentation to support the contractor's plan to comply with federal limitations.

The SBA is reliant upon the contracting agencies to ensure the 8(a) contractors are complying with contract regulations. Failure to comply with subcontracting limitations could result in termination of the contractor from the 8(a) program.

Federal regulations state that for services contracts at least 50 percent of the labor dollars must go to the 8(a) prime contractor. This ensures the 8(a) company is gaining experience in its field, not subcontracting all the work to other companies.

In one instance, the CO proactively contacted contractors involved and the SBA to determine compliance with federal limitations.

In reviewing the subcontracting documentation for the one contract, it was questionable as to whether the 8(a) prime contractor would perform 50 percent of the work. Prior to our review, the CO contacted the contractors involved and the SBA to determine the 8(a) contractor's compliance with subcontracting limitations. Contractor estimates on the work breakdown indicated that the 8(a) prime contractor would perform 57 percent of the work. We believe 8(a) contractor certifications on compliance with federal limitations on subcontracting should be documented in the Pre-award Negotiation Memorandum that is prepared by contracting personnel.

Recommendation

3. The Assistant Commissioner (Procurement) should ensure that Procurement personnel are following guidance issued on obtaining 8(a) contractor certifications on compliance with federal limitations on subcontracting. These certifications should be included in the Pre-award Negotiation Memorandum for each 8(a) contract awarded.

Management's Response: Procurement management agreed to revise the Policy and Procedure on "Reviews of Small Business/Labor Surplus Area Reviews, Small Purchase Set-Asides, and Subcontracting Plans" to require COs to address subcontracting limitations in the price negotiation memorandum for each 8(a) contract.

Conclusion

While the IRS has been widely recognized for its accomplishments in promoting the 8(a) program, improvements are needed in planning and awarding 8(a) contracts. Additional emphasis is needed on planning to ensure all costs associated with an acquisition are considered when determining whether to compete the contract. In addition, improvements are needed in documenting 8(a) contractor compliance with federal subcontracting limitations.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to evaluate whether the Internal Revenue Service (IRS) is effectively using the 8(a) program to achieve organizational goals and whether sufficient controls exist to prevent fraud, waste, and abuse within the program. Specifically, we:

I. Determined the guidance available for the 8(a) program.

  A. Determined the organizational structure within the Procurement function that administers the 8(a) program.

  B. Determined the number of 8(a) contracts awarded since 1995 and the associated dollar values.

  C. Determined what regulations and procedures are available for 8(a) contracting.

    1. Reviewed Procurement regulations for guidance in awarding 8(a) contracts.

    2. Determined whether the IRS has additional internal policies and procedures.

    3. Researched the Internet to establish other external guidance and control weaknesses for the 8(a) program.

    4. Determined if there are any guidelines for self-marketing by the 8(a) contractor.

  D. Determined if the Treasury Inspector General for Tax Administration, Office of Investigations function, has evidence that procedures were not followed in awarding 8(a) contracts.

    1. Reviewed the Office of Investigations' internal databases to determine whether it had received any complaints regarding 8(a) contractors.

    2. Obtained available court documents relating to 8(a) contractors.

II. Determined whether 8(a) contracts were awarded in the best interest of the government.

  A. Judgmentally sampled 25 of 150 8(a) contracts that had activity during Fiscal Years 1995 through 1998 and:

1. Determined the method used to select the winning contractor.
2. Evaluated the adequacy of the competition and the appropriateness of the contract award.
3. Compared the contract award price to the government cost estimate.

B. Determined whether sufficient steps were taken prior to awarding the 25 8(a) contracts sampled.

1. Determined whether the Contracting Officer (CO) included a review of the complexity of the requirements.
2. Assessed whether the CO evaluated whether other 8(a) contractors were available to provide the good/service.
3. Determined whether the CO reviewed the 8(a) contractor's past performance.
4. Reviewed whether the requisitioning office prepared a cost estimate.
5. Evaluated whether the requisitioning office performed a market survey to determine the number of 8(a) contractors that offer the good/service.

III. Determined whether adequate corrective action was taken on recommendations reported in a 1993 audit report.[1]

A. For the sample of 25 8(a) contracts, ensured the contractors explained in their proposals (and during negotiations) how they planned to achieve compliance with federal limits on subcontracting services.

B. Reviewed Procurement Policies & Procedures to determine whether the review process included an evaluation of the extent with which the CO or specialist(s) complied with federal services and manufacturing limitations.

C. Determined whether additional training classes were provided on the negotiation and/or administration of 8(a) contracts.

D. Determined whether an assessment of value to be added to 8(a) contracts by 8(a) contractors was performed and was documented in the file.

[1] *Review of Selected IRS Contracts with an 8(a) Contractor* (Reference Number 140402, dated March 11, 1993)

Appendix II

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
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Appendix III

Report Distribution List

Deputy Commissioner Operations C:DO
Chief, Agency-Wide Shared Services A
Assistant Commissioner (Procurement) A:P
Assistant Commissioner (Program Evaluation and Risk Analysis) M:OP
Office of the Chief Counsel CC
Office of Management Controls M:CFO:A:M
National Director for Legislative Affairs CL:LA
Audit Liaison – Assistant Commissioner (Procurement) A:P

Attachment IV

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

RECEIVED 11-16-99

COMMISSIONER

November 16, 1999

MEMORANDUM FOR DAVID C. WILLIAMS
TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

FROM: Acting for Charles O. Rossotti
Commissioner of Internal Revenue

SUBJECT: Draft Audit Report — Improvements are Needed in Planning and Awarding Internal Revenue Service Contracts to 8(a) Businesses

Attached are corrective actions for recommendations 2 and 3 in the above report. No corrective action is proposed for recommendation no. 1 for the reasons described in the narrative which follows, and clarification is also provided in regard to recommendation no. 2.

Your staff may contact Jim Williams, the Assistant Commissioner (Procurement), at 202-622-8480, or his Executive Assistant, Tom Harner, at 202-622-8867 for additional information.

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Recommendation no. 1 states "The Assistant Commissioner (Procurement) should ensure that all costs associated with a planned acquisition are considered when determining whether to compete the contract (competition thresholds have been exceeded.)" This is based on the finding that "multiple purchase orders [were] issued to the same vendor prior to awarding the vendor two $3 million contracts. The value of these purchase orders was not taken into consideration in the total estimated value of the individual contracts awarded to the vendor....The purchase orders and contracts were for similar services and were awarded within a four-month period." The report states that, if they had been combined, the two subject requisitions would have passed the threshold for competition.

There was no compelling reason to combine these requisitions. They were issued by two different divisions within the Chief Financial Officer (CFO) organization. The first requirement was for financial analysis and reporting for the CFO organization. The second requirement was for staff level accounting/clerical services at the Beckley, West Virginia, facility. They were clearly for very different types of financial support services. Furthermore, the requisitions came to different offices within IRS Procurement at times that were a month apart. There was no business or statutory reason to combine these requisitions, and nor was this a case of splitting requirements to avoid competition. In fact, even though there was no requirement to do so, the contracting officers conducted informal competitions among prospective 8(a) firms in both cases to ensure that the Service's needs would be met.

That being the case, and considering that this was the only instance of purported noncompliance with competition requirements, recommendation no. 1 is unnecessary. There is no evidence that contracting officials have done anything other than consistently uphold competition requirements in IRS procurements, including 8(a) acquisitions. It is also worth noting that the Small Business Administration has never questioned the Service's procedures in this area.

The second recommendation of the draft report is that "the Assistant Commissioner (Procurement) should discourage the use of letter contracts, and in those instances where letter contracts are issued, the terms and conditions of the contract should be timely established." There is nothing in the report indicating that the use of any letter contract was improper. This recommendation seems to be based on the finding by auditors that three letter contracts had not been definitized within the 180 days recommended by the Federal Acquisition Regulation (FAR). However, the FAR does not discourage the use of letter contracts, nor does any other governing authority. FAR 16.603-2(a) recognizes that the use of letter contracts is sometimes in the best interests of the government; and FAR 16.603-2(c) provides for extension of the 180-day definitization period in certain cases.

The IRS's mission is such that there will always be a potential need for letter contracts. For example, such situations as the century date change, the repair of electronic filing components, the repair of vital heating and cooling systems, guard

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services for changing situations, and needs that arise from natural disasters are all cases in which letter contracts would often be the most appropriate and effective means for ensuring the Service's continued efficient operation. Consequently, Procurement proposes a corrective action which will not discourage the use of letter contracts, but which will encourage the definitization of such contracts within the recommended 180-day time frame.

Corrective actions, implementation dates, designations of responsible officials, and corrective action monitoring plans for recommendations 2 and 3 follow.

Recommendation No. 1:

The Assistant Commissioner (Procurement) should ensure that all costs associated with a planned acquisition are considered when determining whether to compete the contract (competition thresholds have been exceeded).

Assessment of Cause:

The report contends that two requisitions should have been combined; and that, by not doing so, Procurement avoided a threshold for competing the total requirement.

Corrective Action:

Not applicable.

Implementation Date:

Not applicable.

Responsible Official:

Not applicable.

Corrective Action Monitoring Plan:

Not applicable.

Recommendation No. 2:

The Assistant Commissioner (Procurement) should discourage the use of letter contracts, and in those instances where letter contracts are issued, the terms and conditions of the contract should be timely established.

Assessment of Cause:

The report finds that definitization of three letter contracts exceeded the 180-day time frame for doing so recommended by the Federal Acquisition Regulation.

Corrective Action:

Policy and Procedures (P & P) Memorandum 4.1(B), "Procurement Reviews," will be revised to require an annual review by the Office of Procurement Policy of designated unpriced actions to determine the status of letter contracts. All those which have exceeded, or appear likely to exceed, the limits for definitization recommended by the

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Federal Acquisition Regulation will be brought to the immediate attention of the Director of the Procurement office in which they are being administered for resolution. A copy of the review report will be provided to the Assistant Commissioner (Procurement).

Implementation Date:

Proposed: April 1, 2000.

Responsible Official:

Assistant Commissioner (Procurement).

Corrective Action Monitoring Plan:

Results Indicator: All letter contracts will be definitized within the recommended limits defined by the Federal Acquisition Regulation, except those for which waivers have been properly approved.

Validation Process: The annual review will track the percentage of letter contracts which are not definitized within the recommended limits defined by the Federal Acquisition Regulation, and a description of the trend in comparison to previous years will be provided in the report to the Assistant Commissioner (Procurement).

Recommendation No. 3:

The Assistant Commissioner (Procurement) should ensure that procurement personnel are following guidance issued on obtaining 8(a) contractor certifications on compliance with federal limitations on subcontracting. These certifications should be included in the pre-award negotiation memorandum for each 8(a) contract awarded.

Assessment of Cause:

Only one of the 25 contracts reviewed had documentation to support the contractor's plan to comply with federal limitations on subcontracting.

Corrective Action:

Policy and Procedures (P & P) Memorandum 19.7, "Reviews of Small Business/Labor Surplus Area Reviews, Small Purchase Set-Asides, and Subcontracting Plans," will be revised to require contracting officers to address the limitations on subcontracting in the price negotiation memorandum for each 8(a) contract.

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Implementation Date:

Proposed: April 1, 2000.

Responsible Official:

Assistant Commissioner (Procurement).

Corrective Action Monitoring Plan:

Results Indicator: All contracting officers will address federal limitations on subcontracting by 8(a) contractors prior to contract award and all such contract files will be properly documented.

Validation Process: Reviews of 8(a) contract files will include checking to ensure that compliance with federal limitations on subcontracting by 8(a) contractors is properly documented.