

DEPARTMENT OF HOMELAND SECURITY
Office of Inspector General

An Audit of FEMA's Acquisition
Workforce



Office of Audits

OIG-04-12

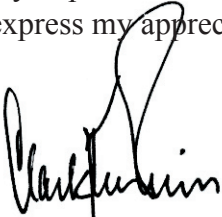
March 2004

Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (Public Law 107-296) by amendment to the Inspector General Act of 1978. This is one of a series of audit, inspection, investigative, and special reports prepared by the OIG periodically as part of its oversight responsibility with respect to DHS to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an assessment of the strengths and weaknesses of the program, operation, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed on the basis of the best knowledge available to the OIG, and have been discussed in draft with those responsible for implementation. It is my hope that this report will result in more effective, efficient, and/or economical operations. I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "Clark Kent Ervin". The signature is stylized with a large, looping initial "C" and "E".

Clark Kent Ervin
Inspector General

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Abbreviations

CFR	Code of Federal Regulations
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
IDP	Individual Development Plans
OFPP	Office of Federal Procurement Policy

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OCPO Office of the Chief Procurement Officer
OIG Office of Inspector General

OIG

Department of Homeland Security
Office of Inspector General

Introduction

The Federal Emergency Management Agency's (FEMA) acquisition workforce includes a senior procurement executive, a full-time professional staff of 51, and 23 temporary employees. They are located at FEMA headquarters, National Emergency Training Center, Mount Weather Emergency Assistance Center, and ten FEMA regional offices. FEMA acquires a wide range of goods and services - from office supplies and forklifts to laboratory and security services.

We conducted this audit to assess how well FEMA manages its acquisition workforce. The audit was conducted from November 2002 to June 2003 at FEMA headquarters, National Emergency Training Center, and Mount Weather Emergency Assistance Center.

Results in Brief

Numerous deficiencies in FEMA's record keeping prevented the Office of Inspector General (OIG) from performing a thorough analysis of FEMA's acquisition workforce capability and workload management. It was impossible to determine whether the acquisition personnel met training, education, and experience requirements. While it was not possible to evaluate workload management, there were indications that FEMA needs to manage its workload more effectively. The absence of capability and performance information in employee files, and the absence of operational reviews indicated that managers do not have the information needed to manage the workload.

The OIG recommends that the Chief Procurement Officer, Office of the Under Secretary for Management:

1. Review and update FEMA professionalism and warrant files to ensure that each employee meets the requirements for his or her position.

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2. Review and update *48 CFR 4401*, FEMA Manual 4100.1, and FEMA Policy Memorandum 2001-02.
 3. Ensure that FEMA's acquisition policy and policy monitoring function is outside operational procurement branches.
 4. Designate a competition advocate in writing.

Background

FEMA became part of the Department of Homeland Security in March 2003. FEMA's mission is to reduce the loss of life and property, and protect our institutions, from all hazards. In support of this mission, FEMA processed over 2,600 procurement actions for a total of \$429 million during FY 2002. Actions ranged from awarding new contracts to making small purchases using simplified acquisition procedures. FEMA's acquisition workforce is made up of 51 full-time professional staffers working at headquarters and other field office facilities. In addition, there are 23 temporary acquisition employees who work at disaster field offices to help respond to and recover from disasters. Of the 74 employees, 43 have warrants to conduct contracting activities.

Federal laws and regulations govern what FEMA can buy, the methods used to purchase items, and who is allowed to make purchases. The Federal Acquisition Regulation (FAR) is the primary document governing acquisitions by executive agencies such as FEMA. The *Code of Federal Regulations (CFR) 48 4401* is FEMA's regulation implementing the FAR.

In addition to the regulations, FEMA implements internal agency guidance that directs, guides, informs, and instructs employees in performing their jobs. FEMA Manual 4100.1, *Acquisition Management*, summarizes federal and FEMA acquisition guidance. Policy Memorandum 2001-02, *Revised Procurement Career Management Program*, outlines minimum acquisition workforce training and experience requirements and provides guidance for granting, maintaining, and revoking acquisition skill level certifications and contracting officer authority.

Acquisition Workforce Files

FEMA has not maintained accurate or up-to-date acquisition workforce files. A majority of the information on warrants, training, education, experience, waivers, and certifications was not maintained in the files, as required by FEMA Policy Memorandum 2001-02, FAR 1.603, and Office of Federal Procurement Policy (OFPP) guidance. FEMA maintains a consolidated professionalism and warrant file for each acquisition employee in the contract specialist job series. As a result of the inadequate files, the OIG was unable to assess the qualifications of the workforce. Because FEMA's acquisition workforce files were not maintained pursuant to applicable federal guidelines, FEMA may be at risk that its acquisition workforce is not qualified. In addition, inadequate warrant files increase the risk that contracting officer authority might be granted to those without the qualifications or need for such authority.

The OIG reviewed professionalism files for the 45 employees in the contract specialist job series and 43 warrant files. All but one of the 45 professionalism files did not have sufficient documentation as to whether employees completed the mandatory core training requirements for their respective grade levels. Thirty-seven of 43 warrant files had inadequate supporting documentation for experience; 35 had insufficient supporting documentation regarding educational requirements; 21 had inadequate supporting documentation regarding training; and 17 had insufficient supporting documentation regarding continuing education. Two waivers of education requirements had been granted for promotions to grades 13 and 14 without the required documentation in the employees' files. In addition, none of the personnel files for FEMA's 23 temporary acquisition employees who work at disaster field offices contained copies of performance appraisals, as required by FEMA policy. A FEMA official told the OIG that FEMA did not have a file retention plan, which is also required by FEMA policy.

During the course of the OIG's audit work, FEMA found some of the missing file documentation and increased its efforts to organize and manage acquisition workforce files. FEMA officials said that the files had not been adequately maintained because they did not have sufficient resources devoted to maintaining them. They said there were many other competing priorities and not enough time or staff to complete them all. The OIG, however, did not independently verify that this was the case.

Regulations

The FAR is supplemented by *48 CFR 4401*, which codifies uniform policies and procedures for FEMA acquisitions. FEMA has not updated *48 CFR 4401* for at least two years, although federal regulations require annual updates. As a result, the regulation is outdated and contains inaccurate information. It lists offices and functions that no longer exist, policies and procedures that are no longer relevant, and delegations that are no longer effective. For example, according to the most current version of *48 CFR 4401*, FEMA's competition advocate is the chief, Policy and Planning Division, Office of Acquisition Management. However, that division no longer exists.

In another example, *48 CFR 4401* allows unlimited contracting authority to be granted to people who have a minimum of two years specialized experience. However, current FEMA policy is that such authority be granted only to people who have at least five years of progressively complex government contracts related experience. The regulation needs to be updated to match the current policy.

FEMA Guidance

FEMA instructions and manuals direct, guide, inform and instruct employees in the performance of their jobs. Consequently, they should be updated periodically to enable employees to work effectively. FEMA has not updated its acquisition guidance to reflect current federal regulations. FEMA Manual 4100.1, *Acquisition Management*, was last updated in 1993. It requires compliance with the Brooks Automatic Data Processing Act, a law that was repealed and replaced by the Clinger Cohen Act of 1996. Additionally, it states that multiple small business sources are to be used for procurements of \$25,000 or less. Current federal regulations require that acquisitions between \$2,500 and \$100,000 be reserved for small business sources.

Policy Memorandum 2001-02, *Revised Procurement Career Management Program*, dated March 5, 2001, outlines minimum acquisition workforce training and experience requirements. It provides guidance for granting, maintaining, and revoking acquisition skill level certifications and contracting officer authority, too. FEMA's acquisition workforce is required to plan its education, training, and work assignments according to this policy memorandum. However, it is inconsistent with OFPP Policy Letter 97-01. FEMA's policy memorandum is deficient in that

minimum training and experience requirements are not identified for acquisition personnel in the purchasing occupational series, those in non-contracting series with contracting authority at or below the simplified acquisition threshold, or those assigned as contracting officer representatives. Also, it does not address funding of acquisition workforce education and training.

Non-Compliance with Guidance

Although it was not possible to perform a comprehensive assessment of FEMA's compliance with acquisition regulations and policies, the OIG noted several instances of non-compliance. The OIG determined from its review of acquisition employee files and interviews with acquisition staff that policies on education waiver requirements were not followed for two employees. In addition, records did not document that contracting officer authority was properly granted or revoked in 17 instances. For example, FEMA granted \$25,000 of non-disaster contracting officer authority to a regional support coordination assistant without adequate documentation justifying the action. The employee was not in the contracting occupational series, and the employee's position description did not identify non-disaster procurement responsibilities.

In addition, FEMA has not prepared individual development plans (IDPs) for its acquisition employees, as required under FEMA Policy Memorandum 2001-02. The IDP identifies the education, training, and developmental needs of an employee. It documents the necessary planning, scheduling, and budgeting of training and development for employees to be effective and advance in the acquisition field. Only one of the 45 contract specialists had an IDP. FEMA officials told the OIG they have not required IDPs for its acquisition employees for several years. The absence of an IDP hampers FEMA's ability to ensure that its acquisition workforce is qualified and that adequate funds are set aside for education and training.

Policy Staffing

Interpreting, implementating, and monitoring acquisition policy are important functions that should be given high priority and a reasonable degree of independence. FEMA assigned acquisition policy responsibilities to procurement analysts in one of the functional procurement branches, thus limiting the independence and effectiveness of the policy function. In addition, the

competition advocate position, an important function required to ensure that competition policies were enforced, was not clearly established. Although FEMA's web site named a division director as the competition advocate, acquisition officials said that the competition advocate's functions were verbally assigned to a senior procurement analyst within the branch. In any case, the competition advocate, as a part of the operational branch, did not have the independence necessary to be effective in the position.

FEMA has not reviewed its contracting operations for effective competition since FY 1992. Federal regulations require these reviews to be conducted annually to ensure that agencies are promoting full and open competition to the maximum extent practicable. After interviewing staff and reviewing FY 2001 small business goals and procurement data, the OIG determined that FEMA also failed to meet its FY 2001 small business goals, and that a required written justification and corrective action plan was not submitted to the Small Business Administration.

Prior to 1996, FEMA conducted biennial procurement system reviews to evaluate the effectiveness of FEMA procurement activities and compliance with governing laws and regulations. However, FEMA has not conducted the reviews since then. Acquisition officials told the OIG that they did not have the resources to perform the biennial reviews. These independent management reviews represented an important quality control mechanism for ensuring that procurements were conducted effectively and according to federal laws and regulations.

Conclusions and Recommendations

FEMA has inadequate controls to ensure that its acquisition workforce meets training, education, and experience requirements and can function according to federal regulations. Specifically, FEMA's acquisition personnel records are incomplete, and management has not performed all required personnel management functions. FEMA is aware of these deficiencies and has requested additional acquisition resources to address the problem.

The OIG recommends that the Chief Procurement Officer, Office of the Under Secretary for Management:

1. Review and update FEMA professionalism and warrant files to ensure that each employee meets the requirements for his or her position.

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2. Review and update *48 CFR 4401*, FEMA Manual 4100.1, and FEMA Policy Memorandum 2001-02.
 3. Ensure that FEMA's acquisition policy and policy monitoring function is outside operational procurement branches.
 4. Designate a competition advocate in writing.

Purpose, Scope, and Methodology

The objective of this audit was to assess FEMA's management of its acquisition workforce. The review process included interviewing FEMA officials, evaluating and comparing FEMA's acquisition guidance with federal acquisition laws and regulations; and, analyzing warrant and certification files, position descriptions, mission and function statements, organizational and staffing charts, personnel records, budget justification documentation, workload history, and overtime records.

We conducted our audit between November 2002 and June 2003 according to generally accepted government auditing standards.

Throughout the audit, OIG worked closely with FEMA acquisition and human resource officials. The cooperation and courtesies extended to the audit team are appreciated. The principal OIG points of contact for the audit are Assistant Inspector General for Audits, J. Richard Berman at (202) 254-4100, and Dennis White, Director, Emergency Preparedness and Response at (202) 254-4157. Major OIG contributors to the project are identified in Appendix 5.

The OIG recommends that the Chief Procurement Officer, Office of the Under Secretary for Management:

1. Review and update FEMA professionalism and warrant files to ensure that each employee meets the requirements for his or her position.
2. Review and update *48 CFR 4401*, FEMA Manual 4100.1, and FEMA Policy Memorandum 2001-02.
3. Ensure that FEMA's acquisition policy and policy monitoring function is outside operational procurement branches.
4. Designate a competition advocate in writing.

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

January 16, 2004

Mr. Clark Kent Ervin
Inspector General
Department of Homeland Security
Washington, DC 20528

Subject: IG Audit of FEMA's Acquisition Workforce

Dear Mr. Ervin:

Thank you for the opportunity to respond to the draft Inspector General audit report entitled, "FEMA's Acquisition Workforce." Our response to your recommendations is discussed below. For ease of reading, listed below is each of the four IG recommendations and the DHS response after each recommendation.

1. Review and update FEMA professionalism and warrant files to ensure that each employee meets the requirements for his or her position.

FEMA is in the process of updating records for all GS-1102 personnel and is the lead DHS organizational element in the use of the Federal Acquisition Institute Acquisition Career Management Information System (ACMIS). FEMA is reviewing records for compliance with the draft DHS management directive on career management for contracting professionals.

FEMA is taking action to review files on warrant holders to ensure compliance with DHS management directive on issuance and maintenance of contracting warrants.

In regards to recommendations regarding regulations, FEMA's internal workforce policies will be superceded when the DHS management directives concerning contracting professionals (MD 781) and contracting warrants (MD 0740.2) are issued on or about February 1, 2004. Copies of the draft management directives are attached.



www.dhs.gov

2. Review and update 48 CFR 4401, FEMA Manual 4100.1 and FEMA Policy Memorandum 2001-02.

Prior to the formation of DHS, FEMA was a unique, independent agency. The DHS formation brought FEMA into a department and the independent agency status was vacated. As an independent agency, separate, unique FEMA acquisition regulations and procedures were appropriate. The pre-DHS regulations and procedures could not be abandoned until the Department of Homeland Security Acquisition Regulation (HSAR) and the Department of Homeland Security Acquisition Manual (HSAM) were implemented.

With the publication of the Federal Register notice in December 2003 of the interim rule for the HSAR and the implementation of the HSAM, FEMA is now in a position to proceed with the withdrawal of the FEMA Manual 4100.1 under formal rulemaking procedures and update and/or revise the FEMA Policy Memorandum 2001-02. FEMA assembled a team to review and update the policies and procedures to ensure compliance with the HSAR and HSAM.

3. Ensure that FEMA's acquisition policy and policy monitoring function is outside operational procurement branches.

FEMA acknowledges the policy monitoring function needs to be outside of the operational procurement branches. FEMA will establish a separate policy branch.

4. Designate a competition advocate in writing.

The same position identified in recommendation 3 will be designated, in writing, duties as the Competition Advocate for the procuring activity in accordance with the HSAM 3006-570.

Finally, the Office of the Chief Procurement Officer will continue to monitor the progress on a regular basis to ensure completion of all of the action items. FEMA has committed to complete all of the corrective actions in your report by December 31, 2004.

Sincerely,



Gregory D. Rothwell
Chief Procurement Officer

Mr. Clark Kent Ervin
January 16, 2004

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The OIG evaluated the Office of the Chief Procurement Officer's (OCPO) written comments and has made changes to the report where appropriate. A summary of the written comments and our analysis regarding the recommendations made in the report is as follows:

Recommendations

1. Review and update FEMA professionalism and warrant files to ensure that each employee meets the requirements for his or her position.

OCPO agrees with this recommendation. FEMA is in the process of updating records for all GS-1102 personnel. FEMA is also taking action to ensure that contracting warrants are issued and maintained in accordance with DHS management directives. OCPO and FEMA plan to complete this corrective action by December 31, 2004.

The OIG concurs with OCPO's response.

2. Review and update 48 CFR 4401, FEMA Manual 4100.1, and FEMA Policy Memorandum 2001-02.

OCPO concurs with the intent of this recommendation. FEMA has assembled a team to review and update the policies and procedures to ensure compliance with the DHS Security Acquisition Regulation and DHS Acquisition Manual. FEMA has committed to complete this corrective action by December 31, 2004. OCPO will monitor FEMA's progress.

The OIG concurs with OCPO's response.

3. Ensure that FEMA's acquisition policy and policy monitoring function is outside operational procurement branches.

OCPO agrees with this recommendation. FEMA will establish a separate policy branch by December 31, 2004. OCPO will monitor the progress of this corrective action.

The OIG concurs with OCPO's response.

4. Designate a competition advocate in writing.

OCPO agrees with this recommendation and a Competition Advocate will be designated in writing. OCPO and FEMA plan to complete this corrective action by December 31, 2004.

The OIG concurs with OCPO's response.

Gina Smith, Audit Manager, Department of Homeland Security, Office of Audits,
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Office of the Under Secretary for Management
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