



United States Department of State
and the Broadcasting Board of Governors

Office of Inspector General

March 20, 2014

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TO: M – Patrick F. Kennedy
A – Joyce A. Barr

FROM: OIG/AUD – Norman P. Brown
OIG/INV – Anna S. Gershman
OIG/ISP – Robert Peterson

SUBJECT: Management Alert (Contract File Management Deficiencies)

The Office of Inspector General (OIG), in recent audits, investigations, and inspections, has identified significant vulnerabilities in the management of contract file documentation that could expose the Department to substantial financial losses. Specifically, over the past 6 years, OIG has identified Department of State (Department) contracts with a total value of more than \$6 billion in which contract files were incomplete or could not be located at all. The failure to maintain contract files adequately creates significant financial risk and demonstrates a lack of internal control over the Department's contract actions.

This Management Alert is intended to alert senior Department management to the serious nature of the issue and provides recommendations to assist in eliminating or mitigating those vulnerabilities.

Pertinent Authority:

The Federal Acquisition Regulation (FAR) requires that contract files be placed in organized filing systems and be properly stored, handled, and disposed.¹ FAR 1.602-2 (d) provides for contracting officers (CO) to designate and authorize, in writing, a contracting officer's representative (COR) to execute certain duties. The *Foreign Affairs Manual* (FAM) at 14 FAM 213 provides that the FAR and the Department of State Acquisition Regulations (DOSAR), which implements and supplements the FAR, govern Department acquisitions. DOSAR 604.802 requires that the heads of the contracting

¹ FAR Subparts 4.801 "General," 4.802 "Contract Files," 4.803 "Contents of Contract Files," 4.804 "Closeout of Contract Files," and 4.805 "Storage, Handling, and Disposal of Contract Files" address the filing system.

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activities maintain standard procedures to conform to FAR 4.802 for file location and maintenance. Additionally, DOSAR 604.803-70 states that:

It is the Department's policy that all contracts, regardless of dollar value, be properly documented so as to provide a complete record of: pre-solicitation activities; the solicitation, evaluation, and award process; and, [sic] the administration of the contract through closeout.

Representatives within the Bureau of Administration's Office of the Procurement Executive (A/OPE) also have responsibility for monitoring the Department's procurement activities. According to 1 FAM 212.2, A/OPE "[e]stablishes a system for measuring the performance of contracting activities and offices...to ensure the quality of procurement actions..." and, "[c]onducts training and staff assistance visits to contracting offices domestically and abroad to promote quality in the acquisition process."

Findings and Analysis:

OIG audits, investigations, and inspections, as well as audits of Department contract management conducted by other oversight organizations, have found repeated examples of poor contract file administration. Therefore, OIG has designated contract management as one of the Department's major management challenges for the past several years.² The Department's Agency Financial Report references additional contract management deficiencies identified by OIG.

Set out below are examples of contract file deficiencies found in audits, investigations, and inspections:

Audits. A recent OIG audit of the closeout process for contracts supporting the U.S. Mission in Iraq revealed that contracting officials were unable to provide 33 of 115 contract files requested in accordance with the audit sampling plan.³ The value of the contracts in the 33 missing files totaled \$2.1 billion. Forty-eight of the 82 contract files received did not contain all of the documentation required by FAR 4.8. The value of the contracts in the 48 incomplete files totaled an additional \$2.1 billion. An ongoing OIG audit of Bureau of African Affairs contracts revealed that CORs were unable to provide complete contract administration files for any of the eight contracts that were reviewed. The value of these contracts totaled \$34.8 million.⁴

² The Inspector General's Assessment of the Department's Management and Performance Challenges is contained in the United States Department of State Fiscal Year 2013 Agency Financial Report, pages 122-129.

³ *Audit of the Contract Closeout Process for Contracts Supporting the U.S. Mission in Iraq* (AUD-MERO-14-06, December 2013).

⁴ "Audit of Selected Contracts and Grants within the Bureau of African Affairs," Audit Job Number 13AUD086, announced on July 16, 2013.

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Deficiencies in contract file management have also been identified in joint audit reports issued by this office, the Department of Defense OIG (DoD OIG) and the Special Inspector General for Iraq Reconstruction (SIGIR). Specifically, in two joint audits conducted with DoD OIG,⁵ we found that, for two task orders valued in excess of \$1 billion, the Bureau of International Narcotics and Law Enforcement Affairs had neither ensured that the COR for the Civilian Police contract in Afghanistan established or maintained contracting files that were complete and easily accessible, nor finalized and fully implemented standard operating procedures for maintaining COR files. Also, in a joint audit with SIGIR,⁶ we reviewed four task orders from the Worldwide Personal Protective Services II contract, with an estimated total cost of \$1 billion as of May 29, 2008, and found that COR files maintained in both Washington, DC, and Baghdad, Iraq, were not accessible, complete, or maintained in accordance with Department policy.

In sum, over the past 6 years, our audit work has uncovered significant contract file management deficiencies in Department contracts/task orders with a total value of more than \$6 billion.

Investigations. In the case of work undertaken by OIG's Office of Investigations, one investigation revealed that a contract file did not contain documentation reflecting that modifications and task orders were awarded to the company owned by the spouse of a contractor employee performing as a Contract Specialist for the contract. This contract was valued at \$52 million.

In another investigation, OIG found that a CO falsified Government technical review information and provided the contractor with contract pricing information. The related contract file was not properly maintained and for a period of time was hidden by the CO. This contract was valued at \$100 million. In a third investigation, OIG found that a COR allowed the payment of \$792,782 to a contractor even though the contract file did not contain documents to support the payment. Furthermore, an additional OIG investigation revealed that the contract file was missing a COR appointment letter required by FAR 1.602-2 (d).

Inspections. In a number of recent OIG inspections, OIG identified contract file management deficiencies. For example, COR files for a \$2.5 million contract lacked status reports and a tally of the funds expended and remaining on the contract.⁷ OIG discovered other instances in which contract files lacked contract performance

⁵ *DOD Obligations and Expenditures of Funds Provided to the Department of State for the Training and Mentoring of the Afghan National Police* (MERO-A-10-06, February 9, 2010); and *DOD and DOS Need Better Procedures to Monitor and Expend DOD Funds for the Afghan National Police Training Program* (AUD/CG-11-30, July 7, 2011).

⁶ *Joint Audit of Blackwater Contract and Task Orders for Worldwide Personal Protective Services in Iraq* (AUD/IQO-09-16, June 2009).

⁷ *Inspection of the Bureau of Information Resource Management, Office of Information Assurance* (ISP-I-13-38, July 2013).

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documentation and COR appointment and training certification;⁸ CORs failed to maintain technical information and performance records needed to monitor contractor performance;⁹ and COR filing systems were disorganized.¹⁰

Conclusion:

The Department should take additional action to correct its inadequate enforcement of the FAR's provisions, and its own procedures, that govern the maintenance of contract files. The failure to enforce those requirements exposes the Department to significant financial risk and makes OIG oversight more difficult. It creates conditions conducive to fraud, as corrupt individuals may attempt to conceal evidence of illicit behavior by omitting key documents from the contract file. It impairs the ability of the Department to take effective and timely action to protect its interests,¹¹ and, in turn, those of taxpayers. Finally, it limits the ability of the Government to punish and deter criminal behavior.

Recommendations:

In its Audit of the Contract Closeout Process for Contracts Supporting the U.S. Mission in Iraq (AUD-MERO-14-06), OIG recommended that A/OPE establish a centralized system for maintaining, tracking, and retaining contract files. OIG is making the following additional recommendations:

- (1) OIG recommends that A/OPE develop and implement a process to randomly sample and verify the completeness of contract files, including contract files maintained by contracting officers' representatives and other supporting personnel.
- (2) OIG recommends that A/OPE provide the results of its reviews as set forth in recommendation one to the appropriate bureaus and offices to ensure that contracting officers, contracting officers' representatives, as well as their supervisors and other supporting personnel who do not adequately maintain contract files are held accountable and are required to update contract files in accordance with Federal and Department policies.

⁸ *Inspection of Embassy Vilnius, Lithuania* (ISP-I-13-41A, September 2013).

⁹ *Inspection of the Bureau of International Information Programs* (ISP-I-13-28, May 2013); *Inspection of the Bureau of Information Resource Management, Office of Information Assurance* (ISP-I-13-38, July 2013).

¹⁰ *Inspection of the Bureau of International Information Programs* (ISP-I-13-28, May 2013); *Inspection of the Bureau of Information Resource Management, Office of Information Assurance* (ISP-I-13-38, July 2013); *Inspection of the Bureau of Information Resource Management, Systems and Integration Office* (ISP-I-12-30, June 2012).

¹¹ *Lessons Learned from U.S. Agencies' Management of Iraqi Funds for Relief and Reconstruction* (SIGIR 13-004, January 22, 2013); *Final Forensic Audit Report of Iraq Reconstruction Funds* (SIGIR 12-017, July 13, 2012); and *Analysis of Recommendations Concerning Contracting in Afghanistan, as Mandated by Section 1219 of the Fiscal Year 2011 NDAA* (SIGAR Audit 11-1SP, June 22, 2011).

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- (3) OIG recommends that the Under Secretary for Management ensure that contracting officers and their supporting personnel, and A/OPE specialists conducting oversight visits, have resources sufficient to maintain adequate contract files in accordance with relevant regulations and policies.

OIG would appreciate a written response to this alert and information on actions taken or planned for the alert's three recommendations. The response should indicate agreement or disagreement with each recommendation.

Comments received within 14 calendar days of the date of this Management Alert will be reprinted as an appendix to the alert. In addition to the hard-copy response, please provide an electronic copy to Norman P. Brown, Assistant Inspector General for Audits, at brownnp2@state.gov. This Management Alert may be posted to the OIG Internet and Intranet Web Sites.

If you have any questions, please feel free to contact Norman Brown at (703) 284-2692.

cc: INL – William R. Brownfield



United States Department of State

*Assistant Secretary of State
for Administration*

Washington, D.C. 20520

March 28, 2014

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TO: OIG/AUD- Norman P. Brown
 OIG/INV-Anna S. Gershman
 OIG/ISP-Robert Peterson

FROM: A – Joyce A. Barr 

SUBJECT: Management Alert (Contract File Management Deficiencies) Dated March 20,
 2014

The Office of the Inspector General (OIG) subject Management Alert identified vulnerabilities in the management of contract file documentation that the OIG indicated could expose the Department to potential financial losses. The Bureau of Administration agrees that this vulnerability must be addressed. The point of contact for this Management Alert is the Office of the Procurement Executive (OPE), Eric N. Moore, who may be reached at 703-875-4079.

Management Alert Recommendations:

- (1) OIG recommends that A/OPE develop and implement a process to randomly sample and verify the completeness of contract files, including contract files maintained by contracting officer's representatives and other supporting personnel.**

RESPONSE: Concur with this recommendation. A/OPE intends to do the following to ensure that files are complete:

- a) The Head of the Contracting Activity (HCA) is the individual who has overall responsibility for managing the contracting activity within a given unit. The Director of Acquisitions Management (A/LM/AQM) is the HCA for AQM and the Regional Procurement Support Offices (RPSOs). Regional Bureau Post Management Officers are the HCAs for post procurement. A/OPE will issue a Procurement Information Bulletin (PIB) establishing a contract file audit requirement for HCAs. Because of their size and responsibilities, A/LM/AQM will be directed to provide a formal contract file audit plan for A/OPE approval.

A/OPE will review the results of the A/LM/AQM contract file review and the system for corrective action. Additional quality assurance, such as review of the completeness of files at time of award and at the determination to exercise an option must be considered as part of the plan to build in quality during the process, rather than auditing it in after the fact.

- b) A/OPE will issue a memorandum to all warranted contracting officers, Federal Acquisition Certification-Contracting (FAC-C) and Federal Acquisition Certification-Contracting Officer Representative (FAC-COR) personnel advising them of their basic responsibility to maintain adequate contract documentation. The memorandum will advise that failure to meet this basic responsibility may be a consideration in maintaining future contracting or contracting officer representative authority.
- c) A/OPE will review a random sample of contract files at overseas posts as an element of Staff Assistance Visits (SAVs). It is anticipated that this review may require additional time at post and may necessitate additional travel funds beyond current travel caps to be effective. A/OPE will expand the number and scope of post reviews if feasible based on the availability of additional travel and additional personnel resources.
- d) A/OPE proposes a multi-level response to the review of contracting officer's representative files. The initial responsibility for contracting officer representative compliance lies with the contracting officer appointing the COR as their representative. A/OPE will add a requirement for contracting officers to verify the establishment of COR contract files on programs under their cognizance that exceed \$1M. Contracting officers on programs exceeding \$10M will be advised to verify that the COR has an adequate file within six months of contract initiation and annually thereafter. CORs will, in turn, be required to certify to the contracting officer that files are being maintained. The transition of contracting officer or contracting officer's representative duties will include a requirement to verify the status of the files being transitioned.
- e) Bureaus with a significant number of contracting officer representatives will be advised to be engaged in COR file reviews. A/OPE will work with these offices to institute a Bureau review of COR files as an important level of oversight. A/OPE will review the results of these bureau reviews as well as select additional files for review.
- f) A/OPE will conduct an additional random review of contract and contracting officer representative files based on the availability of resources.

(2) OIG recommends that A/OPE provide the results of its reviews as set forth in recommendation one to the appropriate bureaus and offices to ensure that contracting officers, contracting officers' representatives, as well as their supervisors and other supporting personnel who do not adequately maintain contract files are held accountable and are required to update the contract files in accordance with Federal and Department policies.

RESPONSE: Concur with this recommendation. A/OPE intends to do the following to ensure that contracting personnel are held accountable for adequately maintaining contract files:

- a) A/OPE will issue a memorandum to all warranted contracting officers, Federal Acquisition Certification-Contracting (FAC-C) and Federal Acquisition Certification-Contracting Officer Representative (FAC-COR) personnel advising them that one of the basic responsibilities is to maintain adequate contract documentation.
- b) A/OPE will issue a written report to the General Services Officer (GSO) and the Management Officer (MO) after all overseas Staff Assistance Visits (SAVs) advising the post of the condition of contract files reviewed during the visit.
- c) A/OPE will issue a written report to the Bureau and/or Office Head providing the results of reviews.
- d) A/OPE will require a report from bureau and post file review audits conducted by HCAs and bureau COR oversight organizations.
- e) A/OPE will pursue the addition of a requirement that Post and Bureau Annual Management Control Assurance Statements include verification of internal controls over contract files.

To ensure that individuals are held accountable, A/OPE would appreciate from OIG a list of those responsible for the contract file deficiencies referenced in the Management Alert. On future audits it would be beneficial if OIG can provide A/OPE with any information on accountable individuals whether as an element of the report or through separate communication.

(3) OIG recommends that the Under Secretary for Management ensure that contracting officers and their supporting personnel, and A/OPE specialists conducting oversight visits, have resources sufficient to maintain adequate contract files in accordance with relevant regulations and policies.

RESPONSE: Concur with the need for adequate resources to fulfill the internal control responsibilities of the Department.

A/LM/AQM Contracting Officers are funded through the Working Capital Fund and review of staffing needs is part of the process of maintaining this fund. The need for additional A/OPE travel and personnel oversight resources will be separately examined in light of other Department priorities.

Additionally, resourcing of contracting officers' representatives (CORs) is an individual bureau responsibility. A Bureau Contracting Officers work closely with all bureau program offices to identify and determine the particular technical expertise that is required, the preferred level of COR training and certification, as well as the appropriate number of CORs assigned to each contract. My office will advocate for bureau, office and post increased resources where reviews identify file deficiencies.

cc: M – Patrick F. Kennedy
IG – Steve Linick