

Federal Housing Finance Agency  
Office of Inspector General



**FHFA's Procurement Awards during the  
Period January 2017 to September 2019  
Followed Most of its Acquisition Policies and  
Procedures but Some Required Internal Peer  
Reviews Were Not Performed**



AUD-2020-006

March 24, 2020

## Executive Summary

The Federal Housing Finance Agency (FHFA or Agency), an independent federal agency, buys goods and services for its operations. Although not subject to the Federal Acquisition Regulation (FAR), FHFA maintains that it follows the FAR on a voluntary basis, except for flexibilities set forth in Agency policies and procedures.

We conducted this audit to determine whether FHFA made procurement awards in accordance with its policies and procedures. We reviewed a sample of 25 procurement awards totaling \$18.4 million selected from the population of 239 procurement awards totaling roughly \$34.6 million made between January 1, 2017, and September 30, 2019 (review period).

We found that for the sample of procurement awards reviewed in this audit, FHFA made procurement awards in accordance with most of its policies and procedures during the review period. However, we found required internal peer reviews, intended to improve the completeness and quality of contract files, were not performed for five of the contracts in our sample.

We make one recommendation in this report. In a written management response, FHFA agreed with the recommendation.

This report was prepared by James Lisle, Audit Director; Marco Uribe, Auditor-in-Charge; and Christopher Mattocks, Auditor; with assistance from Bob Taylor, Senior Advisor. We appreciate the cooperation of FHFA staff, as well as the assistance of those who contributed to the preparation of this report.

The report has been distributed to Congress, the Office of Management and Budget, and others, and will be posted to our website, [www.fhfaoig.gov](http://www.fhfaoig.gov), and [www.oversight.gov](http://www.oversight.gov).

Marla A. Freedman, Deputy Inspector General for Audits /s/

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## ABBREVIATIONS .....

APM	Acquisition Procedures Manual
BPA	Blanket Purchase Agreement
CO	Contracting Officer
FAR	Federal Acquisition Regulation
FHFA	Federal Housing Finance Agency
GSA Schedule	General Services Administration Schedule
GWAC	Governmentwide Acquisition Contract
IAA	Interagency Agreement
OGC	Office of General Counsel
OIG	Federal Housing Finance Agency Office of Inspector General
PRISM	Procurement Request Information System Management
SPE	Senior Procurement Executive

## BACKGROUND.....

### FHFA Procurement Governing Authorities and Process

FHFA, an independent federal agency, is not subject to the FAR. However, FHFA states in its Acquisition Policy that it follows the FAR on a voluntary basis, except for flexibilities set forth in its *Acquisition Procedure Manual* (APM). The APM, along with other supplementary FHFA memoranda, implements the Acquisition Policy.<sup>1</sup>

Within FHFA, the Contracting Operations Section is responsible for managing all of FHFA's procurement activities: awarding and administering contracts,<sup>2</sup> including blanket purchase agreements (BPAs)<sup>3</sup> and interagency agreements (IAAs).<sup>4</sup> Designated by the FHFA Director, the Manager, Contracting Operations, serves as the Agency's senior procurement executive (SPE) responsible for the management direction of FHFA's procurement system and management of all contracting activity. The SPE is also authorized to issue contracting officer warrants.<sup>5</sup> Pursuant to their warrants, contracting officers (COs) are delegated the authority to procure goods and services and execute and administer contracts, leases, agreements, memoranda of understanding, and similar documents that involve the obligation or expenditure of funds by FHFA.

FHFA's procurement activities follow these general steps:

- *Pre-solicitation* – Identifying the requirement, performing market research, preparing the statement of work, and solicitation.
- *Solicitation* – Identifying prospective offerors, issuing the solicitation, and receiving proposals or quotes.

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<sup>1</sup> Supplementary memoranda include FHFA Memorandum re Peer Review System (dated Feb. 4, 2015, and updated Sept. 4, 2018) and FHFA Memorandum re Office of General Counsel (OGC) Review of Contract Actions (dated Feb. 6, 2014, and updated July 20, 2017).

<sup>2</sup> Contracts can be various types, such as firm-fixed price; time and materials; and indefinite-quantity, indefinite-delivery.

<sup>3</sup> A BPA is a simplified acquisition method that government agencies use to fill anticipated repetitive needs for supplies or services.

<sup>4</sup> An IAA is a written agreement that establishes the general terms and conditions of an acquisition when a federal agency needing supplies or services obtains them from another federal agency.

<sup>5</sup> A warrant is a certificate that identifies the holder as having the authority to bind the agency to contracts up to an authorized amount.

- *Evaluation* – Evaluating the responsive technical and price proposals or quotes submitted by offerors or vendors.
- *Award* – Making the best value decision for the award, obtaining approvals, and executing the contract with the successful offeror. This stage also includes notifying the unsuccessful offerors and conducting debriefings, as appropriate.
- *Administration* – Ensuring that the contractor delivers the required goods or performs the work according to the contract and the delivery schedule, as well as monitoring the expenditure of funds in relation to the contract or task order ceiling and approving invoices.

The APM directs that COs ensure each contract file include a documentation checklist. The appropriate checklist identifies the level of documentation required for the procurement file, depending on the type of and dollar value of the solicitation. For example, contracts that exceed \$500,000 require more documentation than those below \$500,000. Documentation for contracts that exceed \$500,000 require evidence of pre-solicitation work, such as a requisition, detailed work requirements, an independent government estimate of cost, evidence of market research,<sup>6</sup> a detailed acquisition plan with source selection information,<sup>7</sup> and a request for proposal or quote. The files are also required to include offeror submissions, evaluation of the submissions against preestablished evaluation criteria, and justification for the award. Contracts that exceed \$500,000 (or \$1 million for orders made from General Services Administration (GSA) Schedules<sup>8</sup> or GSA Governmentwide Acquisition Contracts (GWACs)) are also subject to internal peer reviews and reviews by FHFA’s Office of General Counsel (OGC).<sup>9</sup> In contrast, documentation for an IAA is generally more streamlined, requiring: requisition/requirements documentation; a determination documenting that the

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<sup>6</sup> Market research means collecting and analyzing information about capabilities within the market to satisfy agency needs.

<sup>7</sup> Source selection information includes various types of information that is prepared for use by an agency for the purpose of evaluating a bid or proposal to enter into an agency procurement contract, if that information has not been previously made available to the public or disclosed publicly.

<sup>8</sup> GSA Schedules, also known as Federal Supply Schedules, and Multiple Award Schedules, are long-term governmentwide contracts with commercial companies that provide access to millions of commercial products and services at fair and reasonable prices to the government. Streamlined ordering procedures allow agencies to purchase commercial supplies and services faster than buying through open-market procedures.

<sup>9</sup> Supplementary guidance, FHFA Memorandum re Peer Review System (dated Feb. 4, 2015, and updated Sept. 4, 2018) and FHFA Memorandum re OGC Review of Contract Actions (dated Feb. 6, 2014, and updated July 20, 2017), requires that FHFA conduct peer reviews and OGC review for legal sufficiency for all contracts that exceed \$500,000, except for GSA Schedule or GWACs, which require a review when the contract exceeds \$1 million. The Peer Review System memorandum further explains that the solicitation may not be issued or the award executed without consideration of both the peer reviewer’s and OGC’s comments, unless the CO receives a written waiver from the SPE and that waiver is included in the file.

agreement is in the best interest of FHFA (referred to as “interagency agreement determination”); and for IAAs exceeding \$5,000, an OGC review.

The Contracting Operations Section uses the Department of the Treasury’s Procurement Request Information System Management (PRISM) to execute the awards.<sup>10</sup> Between January 1, 2017, and September 30, 2019, FHFA made 239 awards totaling roughly \$34.6 million.<sup>11</sup>

## FACTS AND ANALYSIS .....

We performed this audit to determine whether FHFA made procurement awards in accordance with its policies and procedures. We sampled 25 awards totaling \$18.4 million made by FHFA between January 1, 2017, and September 30, 2019, which consisted of 22 contracts and 3 IAAs. Our sample represented roughly 10% of the awards made and over 53% of the dollars awarded during the review period, and included all awards over \$700,000 and a random sample of the others.

### **For the Sample of Procurement Awards Reviewed in this Audit, FHFA’s Procurement Awards Followed Most of its Policies and Procedures but Some Required Internal Peer Reviews Were Not Performed**

We found that the 25 awards reviewed followed most of FHFA’s procurement policies and procedures examined in this audit. However, we found five instances where required peer reviews were not performed.

#### ***Results of Tests for 22 Sampled Contracts***

##### Pre-solicitation Requirements

APM section 5.201 states that the pre-solicitation responsibilities include the development of an independent government estimate of cost, a requisition, detailed work requirements, and market research, as necessary. We found that the procurement files for the 22 sampled contracts contained this required documentation, without exception.

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<sup>10</sup> FHFA contracts with the Department of the Treasury, Bureau of the Fiscal Service, Administrative Resource Center, for its accounting services and its financial management system.

<sup>11</sup> During the review period, FHFA executed over 1,350 contract actions totaling approximately \$176 million; these actions included initial contract awards, modifications, and orders under blanket purchase agreements.

## Solicitation Strategy

APM section 4.504 states that an acquisition plan is required for new awards greater than \$500,000<sup>12</sup> and that the acquisition plan may include the source selection plan. We tested the 22 sampled contracts to determine whether the solicitation strategy executed was consistent with the pre-solicitation documentation and whether the procurement file included a source selection plan (evaluation criteria) when required. All 12 contracts in our sample that exceeded \$500,000 contained an acquisition plan that documented a solicitation strategy consistent with the pre-solicitation documentation and included a source selection plan (evaluation criteria), without exception. For the 10 contracts in our sample that did not exceed \$500,000, the solicitation strategy and evaluation criteria were documented in the request for proposal or quote, and were consistent with the pre-solicitation documentation.

The APM requires that if a contract is awarded without full and open competition, the requesting FHFA program office must document a justification. The solicitation strategies for the 22 sampled contracts included 7 contract solicitations that were awarded without full and open competition. We found that for these seven contract solicitations, the requisite justification was documented.

## Contract Evaluation

The APM requires that the rationale for the selection decision be documented. We tested the 22 sampled contracts to determine whether offers were evaluated in accordance with the source selection plan (evaluation criteria); whether the award was justified; when applicable, whether unsuccessful offerors were notified; and whether the awarded contract was executed by a CO with sufficient warrant. Documentation of the process varied according to the nature and size of the solicitation; however, we found that the offers for all 22 contracts were evaluated in accordance with the source selection plan (evaluation criteria); a justification for the award was documented in the procurement file; and when applicable, unsuccessful offerors were notified. We found that all 22 contracts were executed by a CO with sufficient warrant.

## OGC Review Requirements

FHFA's supplementary guidance on OGC review of contract actions states that contracts that exceed \$500,000 (or \$1 million for orders from GSA Schedules or GSA GWACs) require review by OGC. Eleven (11) of the contracts in our sample met this threshold; for all 11, the files included documentation of an OGC review.

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<sup>12</sup> This particular \$500,000 threshold includes BPA and GSA orders but not interagency agreements.



## Peer Review Requirements

APM section 4.507 states that “To improve the completeness and quality of contract files, all contract awards greater than \$500,000 must undergo a peer review by another Contracting Officer” and that “Results of all applicable reviews must be included in the contract file.” Further, supplementary guidance on the peer review system requires the peer review at two relevant points in the contracting process (unless waived by the SPE): before the solicitation is issued and again before the award is made.<sup>13</sup> The peer review requirement applied to 12 of the 22 sampled contracts. For 7 contracts, our testing found no exception to the APM requirement. For 5 contracts, we found that FHFA failed to conduct the peer reviews, either prior to solicitation, prior to award, or—for 3 of the 5 contracts—at both points.

The SPE acknowledged that the peer reviews should have been performed as required by the APM.

### ***Results of Tests for Three Sampled IAAs***

While the APM does not set specific documentation requirements for an IAA, the Interagency Agreement File Checklist prescribed by the APM calls for an IAA procurement file to include requisition/requirements documentation, an interagency agreement determination, and a signed interagency agreement. In addition, OGC is required to review all IAAs that exceed \$5,000. Our review of the three IAAs found that all required documents were in the procurement files, the interagency agreement determinations documented justifications for the decisions to enter into the IAAs, and the IAAs were executed by a CO with sufficient warrant.

## **FINDING .....**

### **Required Peer Reviews Were Not Always Performed**

FHFA procedures require that peer reviews, intended to improve the completeness and quality of contract files, be performed prior to solicitation and award for 12 of the contracts in our sample. However, for 5 of these 12 contracts, FHFA failed to conduct the peer reviews, either prior to solicitation, prior to award, or—for 3 of the 5 contracts—at both points. FHFA’s failure to perform required peer reviews increases the risk that procurement decisions and/or documentation that do not comply with FHFA’s policies and procedures would not be detected and corrected timely.

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<sup>13</sup> FHFA Memorandum re Peer Review System (dated Feb. 4, 2015, and updated Sept. 4, 2018).

## CONCLUSION AND RECOMMENDATION .....

We found that for the sample of procurement awards reviewed in this audit, FHFA made procurement awards in accordance with most of its policies and procedures during the review period. However, required internal peer reviews, intended to improve the completeness and quality of contract files, were not always performed.

We recommend that FHFA:

1. Ensure that peer reviews of procurement contract files are performed in compliance with requirements defined in the APM and related FHFA supplementary guidance.

## FHFA COMMENTS AND OIG RESPONSE.....

We provided FHFA an opportunity to respond to a draft of this audit report. FHFA provided technical comments on the draft report and those comments were considered in finalizing this report. FHFA also provided a management response, which is included as an Appendix to this report. In its response, FHFA agreed with the recommendation and stated that, on March 10, 2020, the Senior Procurement Executive issued updated peer review guidance and checklists to FHFA’s contracting officers, which we obtained a copy of and reviewed.

We consider FHFA’s corrective action responsive to our recommendation.

## OBJECTIVE, SCOPE, AND METHODOLOGY .....

Our objective for this audit was to determine whether FHFA had made procurement awards in accordance with its policies and procedures. The scope of this audit covered FHFA’s processes for contract pre-solicitation, solicitation, evaluation, and award for the period January 1, 2017, to September 30, 2019. Contract administration was not covered in this audit but may be the focus of a future OIG audit.

To accomplish our objective, we:

- Reviewed FHFA’s Acquisition Policy, APM, systems’ manuals and agreements, and other relevant policies and procedures to gain an understanding of the governance, operations, and reporting criteria for the procurement award process.

- Interviewed FHFA officials to gain an understanding of the systems, processes, and controls in place to carry out the procurement award functions.
- Reviewed each CO's authorizing authority/limits within PRISM and determined whether they agree with the CO's current certifications and warrants.
- Selected a non-projectable sample of 25 awards totaling approximately \$18.4 million from the population of 239 awards totaling approximately \$34.6 million during the review period. This sample included 22 contracts and 3 IAAs. We stratified our population into three groups. Our sample included all 8 contracts and the 1 IAA greater than \$700,000, 10 randomly selected contracts between \$150,000 and \$700,000, and 4 randomly selected contracts and 2 randomly selected IAAs between \$5,000 and \$150,000. We tested these awards to determine if they were awarded in compliance with FHFA's Acquisition Policy and APM. Specifically, we performed the following.
  - Tested each of the 22 contracts in our sample to determine:
    - Whether the procurement files properly documented the pre-solicitation process.
    - If the solicitation strategy executed was consistent with the pre-solicitation documentation, included a source selection plan (evaluation criteria) and justified any limits to competition based on the nature of the procurement.
    - Whether offers were evaluated in accordance with the source selection plan (evaluation criteria), whether the award was justified, whether unsuccessful offerors were notified, and if the awarded contract was executed by a CO with sufficient warrant.
    - Compliance with established OGC and peer review requirements.
  - Tested each of the 3 IAAs in our sample to determine whether the IAAs were properly documented, justified, and executed.
- Reviewed GAO's website for dispute letters regarding FHFA procurements to determine whether any decisions were made that may impact this audit.

We conducted this performance audit from October 2019 through March 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## APPENDIX: FHFA MANAGEMENT RESPONSE.....



### Federal Housing Finance Agency

#### MEMORANDUM

TO: Marla Freedman, Deputy Inspector General for Audits

FROM: Mark Kinsey, Chief Financial Officer *JM for MK*

SUBJECT: Draft Audit Report: *FHFA's Procurement Awards during the Period January 2017 to September 2019 Followed Most of its Acquisition Policies and Procedures but Some Required Internal Peer Reviews Were Not Performed*

DATE: 3/20/2020

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Thank you for the opportunity to respond to the draft audit report titled, *FHFA's Procurement Awards during the Period January 2017 to September 2019 Followed Most of its Acquisition Policies and Procedures but Some Required Internal Peer Reviews Were Not Performed* (Report). The Office of Inspector General (OIG) reviewed a sample of contracts and interagency agreements to determine whether the Federal Housing Finance Agency (FHFA) made procurement awards in accordance with its policies and procedures.

I am pleased that the audit found that the procurement awards were made in accordance with most of the Agency's policies and procedures. Our response to the Report's single recommendation is below:

**Recommendation:** *Ensure that peer reviews of procurement contract files are performed in compliance with requirements defined in the APM and related FHFA supplementary guidance.*

**Management Response:** FHFA agrees with the recommendation and has taken corrective action. On March 10, 2020, the Senior Procurement Executive issued updated peer review guidance and checklists to the FHFA contracting officers.

I would like to acknowledge the dedicated Office of Inspector General staff that worked with the Agency during this audit. If you have any questions relating to our response, please do not hesitate to call me at (202) 649-3780.

## ADDITIONAL INFORMATION AND COPIES.....

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