

Federal Housing Finance Agency
Office of Inspector General



FHFA Generally Complied with its Updated Guidance for Procurement Peer Reviews

Compliance Review • COM-2022-001 • January 14, 2022



COM-2022-001

January 14, 2022

Executive Summary

In March 2020, we found that for 5 of 12 contracts sampled, the Federal Housing Finance Agency (Agency or FHFA) did not complete internally-required peer reviews, which are intended to ensure the completeness and quality of FHFA's contract files. FHFA's failure to perform these peer reviews increased the risk that procurement decisions or documentation that does not comply with FHFA's policies and procedures would not be detected and corrected in a timely manner. We recommended, and FHFA agreed, that it should ensure that peer reviews of procurement contract files are performed in compliance with requirements defined in the Agency's Acquisitions Procedures Manual (APM) and related FHFA supplementary guidance. We closed the recommendation on March 24, 2020, after FHFA issued revised guidance for completing procurement peer reviews.

We conducted this review to determine whether FHFA complied with its revised guidance. To do so, we assessed all 28 procurement awards made by FHFA between April 1, 2020, and September 30, 2021 (review period) for which a peer review was required, to verify whether such peer reviews were performed in accordance with the revised guidance. Specifically, we tested whether the peer reviews were conducted for the 28 procurement awards, and if so, whether they were completed by the solicitation and award dates, conducted by someone other than the contracting officer (CO), and whether their documentation was maintained in the contract files and reflected that the CO considered the peer review comments. With one minor exception, we found that FHFA complied with these standards in its updated procurement peer review guidance.

This report was prepared by Alisa Davis, Senior Policy Advisor, with assistance from Karen E. Berry, Senior Investigative Counsel. We appreciate the cooperation of FHFA staff, as well as the assistance of all those who contributed to the preparation of this report.

This report has been distributed to Congress, the Office of Management and Budget, and others and will be posted on our website, www.fhfaoig.gov.

/s/

Brian W. Baker
Deputy Inspector General,
Compliance and Special Projects

TABLE OF CONTENTS

EXECUTIVE SUMMARY2

ABBREVIATIONS4

BACKGROUND5

 FHFA’s Procurement Authorities and Process.....5

 FHFA Did Not Conduct Required Procurement Peer Reviews.....5

FINDINGS6

 FHFA Generally Complied with Its Updated Procurement Peer Review Guidance.....7

 The Peer Reviews are Maintained in Contract Files.....7

 Peer Reviews were Completed by the Solicitation and Award Dates7

 Independent COs Performed All Peer Reviews.....8

 COs Considered Peer Review Results Both Prior to Solicitation and Prior to Award.....8

CONCLUSION.....9

OBJECTIVE, SCOPE, AND METHODOLOGY10

ADDITIONAL INFORMATION AND COPIES11

ABBREVIATIONS

Agency or FHFA	Federal Housing Finance Agency
APM	Acquisitions Procedures Manual
CO	Contracting Officer
GWAC	Government-wide Acquisition Contract
OIG	Federal Housing Finance Agency Office of Inspector General
SPE	Senior Procurement Executive

BACKGROUND

FHFA's Procurement Authorities and Process

FHFA's Contracting Operations Section is tasked with managing FHFA's procurement activities, such as awarding and administering contracts. The Contracting Operations Manager is the Agency's senior procurement executive (SPE) and is responsible for the direction of FHFA's procurement system and management of all contracting activity. Such activity is conducted by COs, who exercise delegated authority to procure goods and services. In so doing, the COs execute and administer documents that involve the obligation or expenditure of funds by FHFA.

FHFA's procurement activities involve several steps, including solicitation and award. In the solicitation phase, the Agency identifies potential vendors, issues the solicitation, and receives proposals or quotes. As part of the award stage, FHFA selects a vendor, obtains approvals, and signs the contract with the selected vendor.

FHFA Did Not Conduct Required Procurement Peer Reviews

In March 2020, we audited FHFA's procurement awards process.¹ FHFA's procurement procedures require that for contracts above a certain dollar threshold, peer reviews—which are intended to improve the completeness and quality of contract files—must be performed both prior to solicitation (“solicitation peer reviews”) and then again prior to award (“award peer reviews”), unless a waiver is granted by the SPE. We found that FHFA had failed to conduct peer reviews for 5 of the 12 contracts in our audit sample, either prior to solicitation, prior to award, or—for three of the five contracts—at both points. These failures increased the risk for those five contracts that any noncompliance with FHFA's procurement policies and procedures—including but not necessarily limited to documentation requirements—would not be detected and corrected in a timely manner.

We recommended, and FHFA agreed, that it should ensure that peer reviews of procurement contract files are performed in compliance with requirements defined in the APM and in related FHFA supplementary guidance.² FHFA stated that, on March 10, 2020, the SPE

¹ *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* (March 24, 2020) (AUD-2020-006) (online at www.fhfa.gov/sites/default/files/AUD-2020-006%20Procurement%20Awards%20Audit.pdf).

² FHFA's supplemental guidance includes a March 10, 2020 “Peer Review System” memorandum and an August 23, 2021 revision to that memorandum. We refer to the APM and these memoranda collectively as “procurement peer review guidance.”

issued updated peer review guidance, including but not limited to providing revised checklists to FHFA’s COs for their use when conducting peer reviews. Upon review, we considered FHFA’s actions to be responsive to our recommendation, so we closed it upon issuance of the audit report on March 24, 2020.

FHFA’s updated peer review guidance³ specifies that a CO must generally complete a solicitation peer review and an award peer review for every contract that meets either of the following criteria:

1. All open market solicitations and awards estimated to have a total contract value greater than \$500,000 (include all option years in the estimated total contract value); or
2. All solicitations and awards made under General Services Administration (GSA) Schedules or government-wide acquisition contracts (GWACs) estimated to have a total contract value greater than \$1 million (include all option years in the estimated total contract value).

Notwithstanding these estimated value triggers, the SPE or CO may require a peer review of any other solicitation and award if he or she determines there exists what FHFA calls a “rationale or reasons” that warrant review. Conversely, the SPE is permitted to waive an otherwise mandatory solicitation or award peer review if there are “reasons or rationale” to support it (e.g., due to reduced risks associated with the procurement).

FINDINGS

We initiated this compliance review in October 2021 to determine whether FHFA complied with its updated procurement peer review guidance for awards made during the review period. According to the Agency’s data, there were 28 procurement awards executed during the review period that met the peer review dollar value threshold. As noted above, each qualifying contract award is generally subject to both a solicitation peer review and an award peer review; for this reason, our testing universe consisted of a total of 55 potential peer reviews, comprised of 27 solicitation peer reviews and 28 award peer reviews.⁴ Almost without exception, FHFA complied with its procurement peer review guidance.

³ The peer review guidance was updated on August 23, 2021, but this latest update did not alter the pertinent peer review criteria set forth above. For this reason, we do not discuss this latest update further herein.

⁴ One contract was solicited before our review period, reducing the total solicitation peer reviews to 27.

FHFA Generally Complied with Its Updated Procurement Peer Review Guidance

During our review period, the SPE waived 7 of the required 55 peer reviews.⁵ With 7 waived, 48 peer reviews should have been conducted during this review period. However, as discussed later in this section, FHFA did not complete one of the un-waived remaining peer reviews. Therefore, we tested the four provisions listed below for 47 peer reviews only: 25 solicitation peer reviews and 22 award peer reviews.

We tested the following four guidance provisions for the peer reviews that were not waived:

1. All peer review results are included in the electronic contract file for the procurement at issue;
2. The solicitation peer review was completed by the solicitation date, and the award peer review was completed by the award date;
3. Each peer review was conducted by someone other than the CO responsible for that procurement (the procurement CO); and
4. The procurement CO considered the peer reviewer's comments.

The Peer Reviews are Maintained in Contract Files

FHFA maintains electronic contract files for its procurements. Our review determined that of the 48 peer reviews that were not waived by the SPE, documentation of peer review completion (such as the mandatory checklists) for 47 of those peer reviews were maintained in FHFA's electronic contract files. FHFA acknowledged, and we observed, that one award peer review checklist was not completed and therefore was not maintained in the electronic contract files.

Peer Reviews were Completed by the Solicitation and Award Dates

As noted above, generally solicitation peer reviews must be completed by the solicitation date and award peer reviews by the award date, though the CO may set later deadlines if appropriate. The peer reviewer is required to sign and date the peer review checklist as evidence of his/her review.

We reviewed the completion dates for each of the 25 solicitation peer review checklists and compared them to the solicitation dates provided by FHFA. In all instances, the solicitation

⁵ The 55 required peer reviews consisted of 27 solicitation peer reviews and 28 award peer reviews. The SPE waived 2 of the 27 solicitation peer reviews and 5 of the 28 award peer reviews.

peer review was completed by the solicitation date, so the solicitation peer reviews were timely.

We also reviewed the completion dates for each of the 22 award peer review checklists and compared them to the award dates provided by FHFA. The award peer review was completed by the award date – and was therefore timely – in all instances.

Independent COs Performed All Peer Reviews

As noted on the previous page, a procurement peer review must be conducted by a CO other than the particular CO responsible for that procurement. Each peer review checklist captures both the name of the CO who requested the peer review and the CO who completed the peer review. By reviewing the checklists for all 47 of the non-waived peer reviews in our sample, we found that all 47 were completed by a CO other than the requesting CO, and therefore complied with this particular requirement in FHFA’s updated procurement peer review guidance.

COs Considered Peer Review Results Both Prior to Solicitation and Prior to Award

Each peer review checklist permits the CO who is responsible for a particular procurement to document whether he/she considered the peer review’s results in connection with the solicitation and award. Because a peer review might identify deficiencies in the contract files’ completeness and quality, that CO is not permitted to issue a solicitation or to make an award without having considered the relevant peer review results.

For each of the 25 un-waived solicitation peer review checklists in our sample, we found that the CO responsible for the procurement documented that he/she considered the peer review’s results, either directly in the peer review checklist or within underlying solicitation documents.⁶ Similarly, we found that for each of the 22 un-waived award peer review checklists in our sample, the CO responsible for the procurement documented that he/she considered the peer review’s results, either directly in the peer review checklist or within the underlying contract documentation.

⁶ In one instance, the file format did not allow for tracked changes to demonstrate that the CO considered the peer review comments. However, FHFA provided a final version of the file, as well as evidence that the peer review comments on the award were considered. We also spoke with the peer reviewer, who recalled that the CO incorporated his comments. In light of the other evidence provided, we do not consider this one instance as an exception.

CONCLUSION.....

Based on our testing, FHFA complied with its updated procurement peer review guidance, with one minor exception.

OBJECTIVE, SCOPE, AND METHODOLOGY

We initiated this compliance review in October 2021 to determine if FHFA completed peer reviews of procurement contract files in compliance with requirements in procurement peer review guidance.

To accomplish our objective, we reviewed FHFA’s APM and the “Peer Review System” memoranda dated March 10, 2020 and August 23, 2021. We obtained a listing of all 28 qualifying awards made from April 1, 2020 through September 30, 2021, including the solicitation date, award date, contract type (i.e., GWAC or standalone awards), and original total potential contract amount. We tested both the solicitation and award procurement peer reviews for all 28 contracts in our population.⁷ We assessed signatures and dates, peer review comments, and designations that peer review comments were considered. We observed the location of the procurement peer reviews and evidence that peer review comments were considered during a videoconference. Finally, we interviewed FHFA procurement staff.

We conducted our compliance review from October 2021 through December 2021 under the authority of the Inspector General Act of 1978, as amended, and in accordance with the *Quality Standards for Inspection and Evaluation* (January 2012), which were promulgated by the Council of the Inspectors General on Integrity and Efficiency.

We provided a draft of this report to FHFA for its review and comment. The Agency declined our request for a formal management response.

⁷ One contract was solicited before our review period, reducing the total solicitation peer reviews to 27.

ADDITIONAL INFORMATION AND COPIES.....

For additional copies of this report:

- Call: 202-730-0880
- Fax: 202-318-0239
- Visit: www.fhfaog.gov

To report potential fraud, waste, abuse, mismanagement, or any other kind of criminal or noncriminal misconduct relative to FHFA's programs or operations:

- Call: 1-800-793-7724
- Fax: 202-318-0358
- Visit: www.fhfaog.gov/ReportFraud
- Write:

FHFA Office of Inspector General
Attn: Office of Investigations – Hotline
400 Seventh Street SW
Washington, DC 20219