



OFFICE OF INSPECTOR GENERAL

Audit Report

2017-FMIC-C-007

The CFPB Can Strengthen Contract Award Controls and Administrative Processes

March 30, 2017

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

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Abbreviations

BFS	Bureau of the Fiscal Service
CFPB	Consumer Financial Protection Bureau
CO	contracting officer
FAR	<i>Federal Acquisition Regulation</i>
FY	fiscal year
GAO	U.S. Government Accountability Office
GSA	U.S. General Services Administration
IGCE	independent government cost estimate
OIG	Office of Inspector General
Procurement Office	Office of the Chief Procurement Officer
sole-source justification	Justification and Approval for Other-Than Full-and-Open Competition form



Executive Summary:

The CFPB Can Strengthen Contract Award Controls and Administrative Processes

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Purpose

The objective of this audit was to assess the Consumer Financial Protection Bureau's (CFPB) compliance with the *Federal Acquisition Regulation* and CFPB policy related to the contract solicitation, selection, and award processes, as well as the effectiveness of the CFPB's associated internal controls. This audit is a follow-on to our 2015 audit of the CFPB's contract management processes. Our current audit focused on procurement activities that precede contract award. Separately, our office also evaluated the CFPB's management of potential conflicts of interest related to a fair lending enforcement expert services contract.

Background

The CFPB's Office of the Chief Procurement Officer (Procurement Office) oversees purchasing for the CFPB. The office establishes policies and procedures, oversees staff training and certification, and collaborates with program offices across the CFPB's divisions to solicit and award contracts. In fiscal year 2015, the Procurement Office entered into contracts representing 47 percent of the CFPB's \$524.4 million in total obligations. We sampled and assessed 27 of 164 initial contract awards executed by the Procurement Office in fiscal year 2015. These contracts had an initial obligated value of approximately \$9.9 million and a total maximum amount, including the value of all available options, of \$26.1 million.

Findings

We found the CFPB to be generally compliant with applicable laws, regulations, and CFPB policies and procedures related to contract preaward and award process controls. We noted, however, that on some occasions, reviews and approvals were overlooked or not documented as required by the *Federal Acquisition Regulation* or CFPB policy. The Procurement Office can improve its contract file documentation by consistently including evidence that acquisition planning documents have been reviewed and approved and that conflict of interest documents for evaluation team members were signed. The CFPB can also improve the documentation used to support price reasonableness determinations for sole-source contracts and improve Routing and Review Slip documentation. We also found that there were opportunities to expand the use of digital signatures in the acquisition process. Lastly, the Procurement Office can capture and monitor acquisition lead-time data as a performance measure and better inform program offices by enhancing communications and training.

Recommendations

Our report contains recommendations designed to (1) strengthen the CFPB's internal control environment during acquisition planning, (2) improve the CFPB's contract file documentation, and (3) improve the CFPB's use of performance goals and communication with program offices during the acquisition process. In its response to our draft report, the CFPB concurs with our recommendations and outlines corrective actions to address our recommendations.

Summary of Recommendations, OIG Report 2017-FMIC-C-007

Recommendation number	Page	Recommendation	Responsible office
1	11	Review the contracts described in finding 1 to ensure that they were awarded appropriately, including ensuring that evaluation team members from the program office were free of conflicts related to the selection process, and take any needed actions based on that review.	Office of the Chief Procurement Officer
2	11	Improve internal controls to ensure that required reviews and approvals take place at the appropriate point in the process and are documented in the contract file.	Office of the Chief Procurement Officer
3	11	Enhance existing policy and associated training to emphasize the importance of contract file completeness and the use of current templates.	Office of the Chief Procurement Officer
4	14	Enhance existing policy and associated training to emphasize the importance of <ol style="list-style-type: none"> a. using independent information when determining price reasonableness for sole-source contracts and including as much detail as practicable in the contract file. b. specifically detailing the contract action being reviewed on the Routing and Review Slip. c. using digital signatures on procurement documents when practicable. 	Office of the Chief Procurement Officer
5	17	Update the <i>Policy for Acquisition Planning</i> to include a requirement to track acquisition lead times.	Office of the Chief Procurement Officer
6	17	Enhance existing policy and training to improve ongoing communication between the Office of the Chief Procurement Officer and program office employees, including better informing the program offices of their role in the acquisition process and the status of their acquisitions.	Office of the Chief Procurement Officer



OFFICE OF INSPECTOR GENERAL

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

March 30, 2017

MEMORANDUM

TO: David Gragan
Chief Procurement Officer and Assistant Director, Office of the Chief
Procurement Officer
Consumer Financial Protection Bureau

FROM: Melissa Heist *Melissa Heist*
Associate Inspector General for Audits and Evaluations

SUBJECT: OIG Report 2017-FMIC-C-007: *The CFPB Can Strengthen Contract Award Controls and Administrative Processes*

The Office of Inspector General has completed its report on the subject audit. We conducted this audit to assess the Consumer Financial Protection Bureau's (CFPB) compliance with the *Federal Acquisition Regulation* and CFPB policy related to contract solicitation, selection, and award processes, as well as the effectiveness of the CFPB's associated internal controls.

We provided you with a draft of our report for review and comment. In your response, you concur with our recommendations and outline actions that have been or will be taken to address our recommendations. We have included your response as appendix C to our report.

We appreciate the cooperation that we received from the CFPB's Office of the Chief Procurement Officer. Please contact me if you would like to discuss this report or any related issues.

cc: Sartaj Alag, Chief Operating Officer and Associate Director, Division of Operations
Elizabeth Reilly, Chief Financial Officer and Assistant Director, Office of the Chief Financial Officer

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Introduction

Objective

The objective of this audit was to assess the Consumer Financial Protection Bureau's (CFPB) compliance with the *Federal Acquisition Regulation* (FAR) and CFPB policy related to the contract solicitation, selection, and award processes, as well as the effectiveness of the CFPB's associated internal controls. This audit focuses on procurement activities that precede contract award as well as related laws, regulations, and CFPB policies and procedures concerning contract preaward and award process controls. It is a follow-on to our 2015 audit of the CFPB's contract management processes.¹ Separately, our office also evaluated the CFPB's management of potential conflicts of interest related to a fair lending enforcement expert services contract.

To accomplish our objective, we sampled and assessed 27 of 164 initial contract awards executed by the CFPB's Office of the Chief Procurement Officer (Procurement Office) from October 1, 2014, through September 30, 2015 (fiscal year [FY] 2015). These contracts had a cumulative initial obligated value of approximately \$9.9 million and a total potential maximum obligation value of \$26.1 million.² Details on our scope and methodology are in appendix A.

Background

CFPB Contract Actions

In FY 2015, the CFPB obligated \$244.1 million³ via 1,452 contract actions.⁴ These contract actions included new contracts awarded in FY 2015, orders placed against these new contracts, orders placed in FY 2015 against contracts existing prior to FY 2015, and any modifications executed in FY 2015. The U.S. General Services Administration (GSA) made 20 of these awards on behalf of the CFPB specifically in support of the renovation of the CFPB's headquarters. The remainder of the contract actions were initiated by the Procurement Office or by the U.S. Department of the Treasury's Bureau of the Fiscal Service (BFS), Division of Procurement, on behalf of the CFPB (table 1). The CFPB and BFS maintain an interagency agreement for BFS to conduct procurements on behalf of the CFPB on an ongoing basis due to the Procurement Office's resource constraints. Our audit considered only contracts awarded by the CFPB.

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1. Office of Inspector General, *The CFPB Can Enhance Its Contract Management Processes and Related Controls*, [OIG Report 2015-FMIC-C-014](#), September 2, 2015.
 2. The CFPB states that an *obligation* refers to a binding agreement that will result in financial outlays, either immediately or in the future. *Initial obligation amounts* are amounts obligated at the point of award.
 3. This amount represented 47 percent of the CFPB's total obligations of \$524.4 million.
 4. A *contract action* is any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction over the micropurchase threshold (\$3,000), or modifications to these actions regardless of dollar value.

Table 1: Breakdown of CFPB Obligated Dollar Amounts, FY 2015

Contracting agency	Obligated amount (\$ millions)
GSA	105.8
BFS	77.6
CFPB	60.8
Total	244.1

Source: OIG analysis of FY 2015 Procurement Office data.

The CFPB's Office of the Chief Procurement Officer

The Procurement Office oversees purchasing for the CFPB. Its responsibilities include the following:

- establishing Procurement Office policies, procedures, and performance goals
- collaborating with CFPB program offices across CFPB divisions⁵ on acquisitions
- engaging with small businesses to promote contracting opportunities
- coordinating with the CFPB's Office of Minority and Women Inclusion to promote procurement opportunities for minority-owned and women-owned businesses
- delegating contracting functions to BFS when necessary in accordance with the agencies' interagency agreement
- soliciting and evaluating vendor proposals and awarding contracts in accordance with applicable laws, regulations, and policy
- reporting contract actions and contract award information to the public
- overseeing staff training and certification

Contracting Officer Roles and Responsibilities

Procurement Office staff includes contracting officers (COs) who are responsible for ensuring the performance of all necessary contract actions, including soliciting, awarding, and terminating contracts.⁶ The FAR states that COs should be allowed a wide latitude to exercise business judgement; however, they must ensure that contract actions meet all requirements of law, regulations, and applicable CFPB policies and procedures. COs' responsibilities include, among other things,

- reviewing and approving Source Selection Plans and Acquisition Plans
- certifying that Justification and Approval for Other-Than Full-and-Open Competition forms (sole-source justifications) are accurate and complete
- executing Determination and Findings documents for required acquisitions

5. The CFPB's divisions are Operations; Consumer Education and Engagement; Supervision, Enforcement, and Fair Lending; Research, Markets, and Regulations; External Affairs; and Legal.

6. FAR 1.602.

- determining and documenting that vendor prices are fair and reasonable
- ensuring contract file completeness

The CFPB’s *Procurement Career Development Handbook* describes COs as “tasked with the expenditure of public funds and getting maximum value out of taxpayer dollars. This is a major responsibility and an essential function of any government agency.” The *Procurement Career Development Handbook* further states that COs are required to complete a certification process to ensure that they exercise frugality; integrity; and sound, fact-based judgment in all their duties. COs are assigned to acquisitions based on acquisition complexity and dollar value, as well as the CO’s experience, level of training, and approved warrant levels.⁷

Small Business Specialist and Competition Advocate Roles and Responsibilities

The Procurement Office also employs a Small Business Specialist and a Competition Advocate, both of whom review and approve certain proposed acquisitions before the CO makes an award. The Small Business Specialist reviews proposed acquisitions to ensure that small and disadvantaged businesses are given adequate consideration for all contract actions. The Competition Advocate is responsible for promoting full and open competition for the acquisition of commercial items and for approving certain acquisitions. Specifically, for each sole-source acquisition over \$650,000, the Competition Advocate must review the proposed acquisition and approve the justification that the acquisition could not be fully competed. The FAR requires that this justification be documented in writing and approved.⁸ The Competition Advocate also reviews CFPB contracting operations, recommends goals and plans to increase competition, and submits an annual report to the CFPB’s Senior Procurement Executive summarizing the advocate’s activities.

Procurement Office Performance Goals

The Procurement Office endeavors to award contracts competitively to the maximum extent practicable. Its specific performance goals include obligating 90 percent of contract dollars competitively and 28.5 percent to small businesses, which include businesses of different socioeconomic categories. In addition, the Procurement Office works with the Office of Minority and Women Inclusion to increase procurement opportunities for minority-owned and women-owned businesses.

In FY 2015, the CFPB awarded 94 percent of all contract dollars competitively, 16 percent to small businesses, 9 percent to minority-owned businesses, and 5 percent to women-owned businesses. The percentage of contract dollars awarded to small businesses in FY 2015 was below

7. *Warrant levels* are dollar value-based levels of authority granted to COs to obligate the CFPB to expend funds through contracts.

8. FAR 6.303.

the CFPB's small business goal because the CFPB obligated \$105.8 million during that fiscal year for the headquarters renovation.⁹

Overview of the CFPB's Contract Award Process

The contract award process begins when a program office identifies a need for a good or service; the program office initiates a purchase request, which is sent to the Office of the Chief Financial Officer for approval and then routed to the Procurement Office. The Procurement Office assigns the acquisition to a CFPB CO or to BFS. The CO or the BFS representative works with the program office throughout the procurement process, which includes the following steps:

- acquisition planning
- developing and soliciting acquisition requirements
- evaluating proposals
- selecting a vendor and making the award

See appendix B for an overview of the CFPB's contract award process.

Acquisition Planning

The Procurement Office's *Policy for Acquisition Planning* identifies acquisition planning as the most important step in the procurement process. After identifying the need for a good or service, the program office prepares the acquisition package documentation in consultation with the Procurement Office. COs provide guidance to the program offices for this process, which includes conducting market research, establishing the commercial availability of a good or service, identifying potential vendors, and developing cost estimates.

The contents of the acquisition package serve as the foundation for contract-specific decisions, including the contract type and how the acquisition will be awarded. Acquisitions can be awarded several ways, including competitively, as a set-aside to designated categories of vendors,¹⁰ or to a qualified vendor on a sole-source basis. Although the contents of each acquisition package can vary, they generally contain the documents described in table 2.

9. In its *Annual Competition Report for Fiscal Year 2015*, the CFPB explains that obligating funds to the headquarters renovation was a "one-off" procurement.

10. Government contracts can be set aside for small businesses in the following socioeconomic categories: 8(a) Business Development, HUBZone Program, Women-Owned Small Business Program, and Service Disabled Veteran-Owned Program.

Table 2: Preaward Documents, Including Acquisition Package Contents

Document title	Description
Requisition	Contains the requestor’s contact information, the procurement request number and date, and the estimated cost and description of the item or service requested.
Acquisition Plan	Addresses the technical, business, management, and other significant considerations that will guide the acquisition. The final Acquisition Plan must be signed by the CO and the project manager.
Independent Government Cost Estimate (IGCE)	Documents the program office’s realistic estimate of the anticipated cost of contract performance. The IGCE can be used to determine price reasonableness.
Source Selection Plan	Contains information that is prepared for the purpose of evaluating a bid or proposal, as well as signed confirmations from the evaluators of the bid or proposal that they are free of conflicts in relation to the selection process and any resultant award.
Determination and Findings	Documents the required approval of an authorized official prior to entering certain contract actions, such as labor-hour contracts for services that exceed 3 years.
Justification and Approval for Other-Than Full-and-Open Competition (sole-source justification)	Documents a CO’s determination that limited competition is appropriate or that only one source for a good or service is available. The CO must justify the use of such actions in writing, certify the accuracy and completeness of the justification, and obtain the required approvals.
Routing and Review Slip	Documents the tier review by the Procurement Office and the legal review by the Legal Division for contract actions based on applicable thresholds contained in the <i>Procurement Review Threshold Policy</i> .

Source: OIG analysis of Procurement Office policies, procedures, and template.

Developing and Soliciting Acquisition Requirements

Solicitations contain the requirements for the good or service, as well as the vendor evaluation criteria. COs include the criteria in the solicitation from the Source Selection Plan that will be used to evaluate vendor proposals. Under the CFPB’s *Procurement Review Threshold Policy*, before issuing the solicitation, COs are responsible for submitting these documents for tier review to another CO of equal warrant authority for review and approval when the contract action is valued from \$150,000 to \$499,999.99. If the value is at or exceeds \$500,000, the CO must submit these documents to a CO of higher warrant authority for review and approval. In addition, the CO must submit these documents to the CFPB’s Legal Division for legal review when the contract action is valued at or over \$500,000 or when a sole-source contract action is greater than \$150,000. In April 2015, the CFPB updated this policy to require the CFPB’s Senior Procurement Executive to approve all sole-source contract actions greater than \$25,000.

Tier and legal review and approval are documented on a Routing and Review Slip. After receiving the appropriate approvals, the CO issues the solicitation and publicizes it as appropriate.¹¹ For sole-source contracts, the CO sends the requirements directly to the identified vendor.

11. Acquisitions not made through the GSA Schedules Program are publicized on FedBizOpps, the governmentwide point of entry for the public posting of business opportunities greater than \$25,000, including the synopsis of proposed contract actions, solicitations, and associated information.

Evaluating Proposals

The evaluation team, which typically comprises program office employees, uses the specific criteria stated in the Source Selection Plan and publicized in the solicitation to evaluate vendor proposals. The team then documents its conclusions and recommendations and sends its evaluations and consensus recommendation to the CO. The CO independently assesses vendors' pricing proposals; the assessment includes a determination as to whether the pricing is fair and reasonable. The CO then reviews the team's conclusions and recommendations and makes the award decision.

Vendor proposals can be evaluated on the basis of *best value by tradeoff* or *lowest price, technically acceptable*. Best value by tradeoff evaluations consider the price and the technical aspects of a vendor's proposal to arrive at the outcome that, in the government's estimation, provides the greatest overall benefit in response to the requirement. Lowest price, technically acceptable evaluations are used when price is the only deciding factor, and the award is made to the lowest price proposal that is technically acceptable. If only one source for a good or service is available, a sole-source award is made, provided that the vendor's technical proposal is found to be acceptable. In all cases, the CO must determine that the price is fair and reasonable.

Selecting a Vendor and Making the Award

After the evaluations of vendor proposals are completed, the CO documents the award decision. As required by the CFPB's *Procurement Review Threshold Policy*, the CO then sends the award package, containing documents such as vendor evaluations and the source selection decision document, for tier and legal review and approval prior to making the award, as applicable. After the award decision is approved, the CO notifies the successful vendor and awards the contract. Once an award has been made, the CO designates a contracting officer's representative to assist with the technical monitoring or administration of the contract. The CFPB will debrief unsuccessful offerors upon request or provide a brief explanation of the basis for the award decision, as appropriate.

Laws, Regulations, and Guidance

Federal Government Requirements

The FAR is the primary regulation guiding federal executive agencies in their acquisition of supplies and services with appropriated funds. The FAR incorporates the requirements and principles of numerous statutory authorities and provides uniform acquisition policies and procedures with which most federal agencies must comply. Although the CFPB has determined that it is not required to follow the FAR, the agency has made a policy decision to conduct its procurements in accordance with the FAR.

CFPB Guidance

In addition to the FAR, the CFPB has established policies and guidance for various aspects of the contract solicitation, selection, and award processes, as shown in table 3.

Table 3: CFPB Procurement Office Policies and Guidance

Title	Effective date	Purpose
<i>Policy for the Office of Procurement Contract Files</i>	May 18, 2012	Sets out requirements for establishing, maintaining, and disposing of Procurement Office contract files.
<i>Policy for Internal Procurement Data Review</i>	October 15, 2012	Sets the general guidelines for reviewing internal data before entries are made in the Federal Procurement Data System. ^a
<i>Policy for Acquisition Planning</i>	October 25, 2012	Establishes requirements for documenting the acquisition planning process and includes various templates related to the acquisition package.
<i>Procurement Career Development Handbook</i>	August 2013	Maps out the various applications, forms, and education/training processes needed for advancement and professional growth in the CFPB's procurement area.
<i>Small Business Review Policy</i>	September 25, 2013	Increases opportunities for small businesses during the acquisition process.
<i>Procurement Review Threshold Policy</i>	October 8, 2013 April 8, 2015 (update)	Establishes tier and legal review thresholds for various contract actions.
<i>Role and Responsibilities of the Competition Advocate</i>	January 23, 2014	Designates the official responsible for promoting the acquisition of commercial items and full and open competition and outlines this individual's responsibilities.
<i>Signatory Authority Policy</i>	September 17, 2015	Sets forth the CFPB's expectation that authorized signatures will be obtained electronically for Requisition forms for the Office of the Chief Financial Officer.

Source: OIG analysis of CFPB policies, procedures, and guidance.

^aThe Federal Procurement Data System is the system in which the federal government maintains publicly available information about all contract actions.

Finding 1: The Contract Award Approval Process Can Be Strengthened

Although the Procurement Office documented most required reviews of contract documents appropriately, we did not find evidence of required reviews and approvals for the justifications for two sole-source contracts and for one Determination and Findings document for a labor-hour contract. In addition, we found several files that did not include evidence that acquisition planning documents had been reviewed and approved or that evaluation team members signed conflict of interest documentation. The FAR requires that the CO justify the use of a sole-source contract in writing and obtain the required approvals prior to negotiating such a contract. The FAR also states that the head of the contracting activity is required to approve a Determination and Findings document prior to the award of a labor-hour contract for services that exceed 3 years. In addition, both the FAR and Procurement Office policies contain requirements for documentation that is to be included in contract files, and the FAR includes general guidance on avoiding conflicts of interest. Procurement Office officials stated that these reviews were not performed and documentation was missing due to unintentional oversights; we noted, however, that the Procurement Office does not have a formal process to confirm contract file completeness. Without obtaining and including documentation of required reviews in the contract file, the Procurement Office lacks evidence that these contracts were appropriately justified and awarded and that evaluation team members were free of conflicts.

Evidence of Required Reviews Missing for Two Sole-Source Contracts

In January 2015, the CFPB awarded a sole-source contract with a 3-year maximum value of \$2.2 million for expert advice and analysis related to fair lending enforcement. In August 2015, the CFPB awarded an unrelated one-year, \$200,000 sole-source contract for expert witness services. In both instances, the contract files did not contain evidence that the justifications for the sole-source contracts were appropriately reviewed and approved; the sole-source justifications were not signed to certify that they were accurate and complete. Additionally, the sole-source justification for the \$2.2 million contract lacked the required Competition Advocate's approval.

The FAR requires that the CO justify the use of a sole-source contract in writing, certify the accuracy and completeness of the justification, and obtain the required approvals prior to negotiating. Further, the FAR requires that each justification contain sufficient facts and rationale to justify using a sole-source contract. The CFPB requires that the justification include

- a description of the requirement, including the estimated value and a determination by the CO that the anticipated cost to the government will be fair and reasonable
- the statutory authority permitting other than full and open competition
- a demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited
- a statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services

- certification by the program office employee and the CO that the justification is accurate and complete

The Procurement Office indicated that although these contracts were for expert services and were not required to be competed,¹² the lack of review and approval of the justifications by the appropriate officials was an oversight for both cases. With respect to the \$2.2 million acquisition, we ascertained that the program office employee did not sign the sole-source justification. Procurement Office officials said that the acquisition should not have moved forward without the appropriate approvals and that the incident was due to an oversight. The Competition Advocate stated that he did not review and approve the final sole-source justification for one of the contracts prior to the CO making the award because the document was not sent to him. The Competition Advocate explained that COs may submit draft documents for tier review and that the final version of these documents was not reviewed prior to the contract being awarded.

Procurement Office officials stated that source selection decision documents and tier reviews provide a layer of review to ensure that awards are made properly and promote collaboration within the Procurement Office. Procurement Office officials also acknowledged, however, that gaps exist in current policies, including with respect to tier reviews. In particular, they noted the challenges in documenting the multiple tier reviews that occur in the procurement process.

Without required reviews and approvals of the justifications for sole-source awards, the Procurement Office lacks evidence of approval confirmation that (1) the statutory authorities cited are appropriate, (2) the contractor is uniquely qualified, and (3) the agency has plans to overcome competition barriers in subsequent acquisitions. Without evidence of approval, contracts could be awarded inappropriately.

Evidence of Appropriate Reviews Missing on a Determination and Findings Document

In January 2015, the CFPB signed a 5-year labor-hour contract for temporary and ad hoc paralegal support services with a total value of \$7.3 million. We did not find evidence that the associated Determination and Findings document in the contract file, which contained the justification that a fixed-price order was not suitable for these services, was reviewed and approved by the Senior Procurement Executive prior to contract award.

The FAR requires agencies to use fixed-price orders for the acquisition of commercial services to the maximum extent practicable. It also states that a labor-hour order may be used for the acquisition of commercial services only when it is not possible to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence when placing an order. In addition, the FAR requires that prior to the issuance of any labor-hour order with a performance period of more than 3 years, the CO shall execute a Determination and Findings document that contains sufficient facts and rationale to justify that a fixed-price order is not suitable. The CO is required to prepare and sign the Determination and Findings document, and the head of the contracting activity is required to approve it prior to the execution of the contract's base period.

12. Under FAR 6.302-3(a)(2)(iii), an agency is not required to use full and open competition to award a contract for services of an expert or neutral person for any current or anticipated litigation or dispute.

A Procurement Office official explained that the Determination and Findings document had been unintentionally overlooked and not reviewed and approved. Further, the official stated that the Procurement Office is considering implementing a control to ensure that all documents requiring approvals are included in the contract file.

Having evidence that the head of the contracting activity has reviewed and approved the Determination and Findings document prepared by the CO provides assurance that the use of a labor-hour contract was appropriately justified. Without this review and approval, the Procurement Office lacks assurance that the risks of using uncertain pricing arrangements have been considered and mitigated where possible and that the contract was awarded appropriately.

Some Contract Files Were Missing Evidence of Planning Document Approvals and Conflict of Interest Documentation

We found that 4 of 18 contract files had Acquisition Plans that were missing signatures to evidence review by either the CO or the program manager, and 3 of those 4 contract files did not contain Source Selection Plans that were reviewed and approved by the CO. In addition, 8 of 14 Source Selection Plans were not signed by evaluation team members, with 4 of those 8 not containing team members' confirmation that they were free of conflicts of interest. Lastly, 5 of 14 Source Selection Plans were outdated and did not include the conflict of interest statement.

The FAR requires the inclusion of documents in contract files that provide the basis for the acquisition and award, such as acquisition and source selection planning information. In addition, the Procurement Office's *Policy for the Office of Procurement Contract Files* requires Procurement Office personnel to establish and maintain a working contract file that contains sufficient documentation to establish the basis for contract actions. Further, the Procurement Office has established a procedure that directs program managers, the CO, and the Small Business Specialist to review and approve the final version of Acquisition Plans and COs to approve Source Selection Plans, when applicable. The FAR also states that the general rule is to avoid any conflict of interest or even the appearance of a conflict of interest in government-contractor relationships. The Procurement Office's current Source Selection Plan template contains a conflict of interest statement on which the evaluation team members confirm that they are free of conflicts in the selection process and any resultant award.

The Procurement Office provides COs with a checklist to ensure contract file completeness; however, the office does not require COs to use this checklist or any other formal process to verify that the contract files are complete and that all needed reviews and approvals have taken place. Procurement Office officials informed us that human error was the most likely reason documents in the contract files were missing signatures. In addition, we were told that conflict of interest statements were missing from Source Selection Plans because COs were using an outdated version of the Source Selection Plan that did not include the conflict of interest statement. Procurement Office officials also informed us that although Source Selection Plans are not required by the FAR, they consider using these plans as a best practice.

Complete contract files that contain all required approvals provide evidence that (1) the appropriate officials have reviewed and approved the Acquisition Plan; (2) the officials are free of any conflicts of interest; and (3) all technical, business, management, and other requirements were addressed appropriately. Documenting these planning, review, and approval activities in the

contract file would assure the CFPB that the goods and services it procures are acquired in the most efficient and transparent way possible and would better protect the CFPB in the event of a bid protest.

Recommendations

We recommend that the Assistant Director for Procurement

1. Review the contracts described in finding 1 to ensure that they were awarded appropriately, including ensuring that evaluation team members from the program office were free of conflicts related to the selection process, and take any needed actions based on that review.
2. Improve internal controls to ensure that required reviews and approvals take place at the appropriate point in the process and are documented in the contract file.
3. Enhance existing policy and associated training to emphasize the importance of contract file completeness and the use of current templates.

Management's Response

In its response, the CFPB concurs with our recommendations. In the email that transmitted the official response, the CFPB indicates that it has researched each contract and is working with the leadership team to document that each of the specified contracts was awarded appropriately. Additionally, the CFPB has begun coordinating with the evaluation team members identified in this report to ensure that each was free from conflicts during the contract selection stage. The CFPB also states that it will revise its *Procurement Review Policy* to enhance controls that will require reviews to concur on document approval and completion. Finally, the CFPB will issue an executive memorandum to Procurement Office staff that will reiterate the changes to its *Procurement Review Policy* and emphasize the importance of contract file completeness and the usage of up-to-date templates for contract award documentation.

OIG Comment

We believe that the actions described by the CFPB are responsive to our recommendations. We intend to follow up on the CFPB's actions to ensure that the recommendations are fully addressed.

Finding 2: The CFPB Can Improve Its Contract File Documentation

Although the Procurement Office generally established and maintained working contract files, we noted that several files contained documentation supporting price reasonableness determinations that could have been strengthened and other files with Routing and Review Slips that could have been better documented. We also found that there were opportunities to expand the use of digital signatures¹³ in the procurement process. The FAR, Procurement Office policies, and the U.S. Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*¹⁴ include requirements and guidance related to the completeness and accuracy of information. We noted that the Procurement Office does not specify the required level of detail in supporting documents used to determine price reasonableness. Also, although the FAR provides guidance for using digital signatures, the Procurement Office does not have a related policy. Ensuring the completeness of documentation and contract files can provide the CFPB with assurance that price reasonableness has been appropriately determined and documented and serves as a useful source of information when preparing future acquisitions. By using digital signatures, the Procurement Office can be assured that required personnel performed the necessary reviews at the appropriate time.

Support for Price Reasonableness Determinations for Sole-Source Awards Could Be Improved

In 5 of 12 sole source contracts in our sample, we found that COs used inconsistent methods for documenting price reasonableness determinations. We noted that for 3 of the contracts, the COs used independent government cost estimates (IGCEs) that were constructed with pricing information identical to that received directly from the offeror. We also noted that for 2 of the contracts, although documentation included reference to commercially available rates or prior government awards, the documentation supporting these rates was not independently verified, nor was the identity of the specific government contract or contracts referenced.

The FAR states that competition normally establishes price reasonableness and defines market prices as those established in the ordinary course of business between buyers and sellers free to bargain and “that can be substantiated through competition or from sources independent of the offeror.” In instances when only one response is received, COs can use a variety of methods to make the FAR-required price reasonableness determination, including market research; comparable sources, such as previous awards; or prior IGCEs.

A Procurement Office official stated that although it is sometimes difficult for COs to establish price reasonableness on sole-source contracts, the COs for the awards in question could have included better evidence when reviewing commercially available rates to establish price

13. A *digital signature* is a technology-specific process used to authenticate identity and to verify the integrity of signed electronic records.

14. U.S. Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

reasonableness. In addition, although the Procurement Office's *Policy for Acquisition Planning* indicates that the IGCE should address the full cost of anticipated performance, including all options, the policy does not specify the level of detail required for supporting evidence of price reasonableness determinations.

Independently verifying a vendor's pricing information can improve the quality of the IGCE and strengthen price reasonableness determinations, particularly when competition is not available. In addition, thoroughly documented support for price reasonableness determinations can be used as a resource when planning and preparing future acquisitions of a similar nature.

Several Routing and Review Slips Were Not Specific to Their Associated Acquisition

We found that the Routing and Review Slips in 7 of the 21 contract files that required them contained descriptions of acquisitions that were not unique and could be applicable to multiple acquisitions. For example, one Routing and Review Slip contained no description and no other information describing the acquisition. In addition, we noted that one Routing and Review Slip was included in the wrong contract file.

GAO's *Standards for Internal Control in the Federal Government* identifies the need for management to use and process quality information, which is appropriate, complete, and accurate. Quality information is used by management to make informed decisions while considering the relevant objectives and risks.

Procurement Office policy does not specify the level of description required on the Routing and Review Slip, and the slip itself does not contain a unique identifier. By clearly describing an acquisition or otherwise connecting it with its associated Routing and Review Slip, the CFPB can better ensure that acquisitions requiring tier and legal reviews are appropriately vetted.

The Procurement Office Can Expand Its Use of Digital Signatures

We noted that the Procurement Office makes use of digital signatures. We found documents in the contract files that were manually signed, however, and in some of those cases, not dated. The FAR directs agencies to "use electronic commerce whenever practicable or cost-effective," and that "agencies may accept electronic signatures and records in connection with Government contracts." Although we noted that the Procurement Office is making efforts to convert to a digital document management system, there is no office policy requiring the use of digital signatures.¹⁵ Further, Procurement Office officials informed us that there are some limitations to the use of digital signatures; for example, certain vendors will not accept digitally signed documents.

Consistently using digital signatures would enhance the Procurement Office's control environment by providing the CFPB with assurance and evidence that required reviews and other control activities were performed at the appropriate point of the acquisition process. Further, by

15. The CFPB's Office of the Chief Financial Officer does require the use of digital signatures when requesting goods or services.

using digital signatures, the CFPB can potentially improve efficiency, reduce or eliminate paper copies, and facilitate signatures among parties who are in different locations due to geography or telework status.

Recommendation

We recommend that the Assistant Director for Procurement

4. Enhance existing policy and associated training to emphasize the importance of
 - a. using independent information when determining price reasonableness for sole-source contracts and including as much detail as practicable in the contract file.
 - b. specifically detailing the contract action being reviewed on the Routing and Review Slip.
 - c. using digital signatures on procurement documents when practicable.

Management's Response

In its response, the CFPB concurs with our recommendation. In the email that transmitted the official response, the CFPB states that an executive memorandum will be issued to Procurement Office staff requiring the use of independent benchmarks and information for determining that prices are fair and reasonable for all sole-source contracts. Additionally, the CFPB will require all Routing and Review Slips to contain a brief description of the specific requirements and require the use of digital signatures whenever practicable.

OIG Comment

We believe that the actions described by the CFPB are responsive to our recommendation. We intend to follow up on the CFPB's actions to ensure that the recommendation is fully addressed.

Finding 3: The Procurement Office Can Enhance Performance Measures and Better Inform Program Offices

The Procurement Office's *Policy for Acquisition Planning* includes lead-time benchmarks for various acquisition types but does not have a requirement to track lead times to complete an acquisition. Additionally, program office employees stated that they were unclear about their roles and expectations; they also expressed concern that they have limited visibility into the timing and status of their acquisitions and that communication from the Procurement Office could be improved. GAO cites the importance of using performance goals and communicating through the organization. Procurement Office policies do not comprehensively address performance goals, communication with program offices, or the training of program office employees. Capturing and monitoring acquisition lead-time data can help quantify aspects of the acquisition process and may potentially inform operational improvements. Improved communication and training could eliminate certain types of delays and clarify the acquisition process for the program offices.

Acquisition Lead Times Are Not Tracked or Used as a Performance Measure

We found that the Procurement Office uses several performance measures, including the percentage of contracts that are awarded (1) competitively, (2) to small businesses, and (3) to women-owned and minority-owned businesses. However, the Procurement Office does not monitor acquisition lead times and use that information as a performance measure. We noted that BFS, which makes certain awards on behalf of the CFPB, measures and tracks its procurement acquisition lead times.

GAO's *Standards for Internal Control in the Federal Government* and *Framework for Assessing the Acquisition Function at Federal Agencies*¹⁶ state that setting performance goals and tracking entity achievements are essential to an efficient, effective, and accountable acquisition process. In addition, we noted that the Procurement Office's *Policy for Acquisition Planning* includes an enclosure that identifies the standard procurement lead time for various procurement methods; the policy states that acquisition lead times start when the Procurement Office receives a completed acquisition package and finish when a contract is awarded.

Although Procurement Office officials noted that the policy includes lead-time benchmarks, which could be used to measure performance, they noted that the policy does not require that lead times be tracked. Procurement Office officials also noted that they have not been monitoring lead times because resources have been directed toward other, higher-priority areas. We also noted that the policy does not clearly define the point at which the acquisition package is considered complete, so there is no clear starting point to begin measuring acquisition lead time.

Program office employees stated that they want acquisitions to be completed more quickly. If the Procurement Office established and used an acquisition lead-time performance measure, it would

16. U.S. Government Accountability Office, *Framework for Assessing the Acquisition Function at Federal Agencies*, GAO-05-218G, September 2005.

better understand the timeliness of the acquisition process and potentially improve operational performance. The Procurement Office could share the performance information with the appropriate stakeholders to increase their visibility into the timing and status of their acquisitions.

Program Office Staff Are Unclear About Roles and Expectations and Have Limited Visibility Into the Acquisition Process

Although the Procurement Office conducts periodic training for program office employees, these employees told us that additional training would help them with their acquisition-related work and could clarify their roles and associated expectations when working with the office. Some program office employees also indicated that their ability to check the status of their ongoing acquisitions is limited. One method the Procurement Office uses to coordinate with and inform program offices is to conduct weekly planning calls. Scheduled communication also takes place at certain milestones, such as when evaluations of proposals are completed. Other communications tend to be ad hoc in nature.

The Procurement Office provided us with the summary of results from a pilot client satisfaction survey of key stakeholders, which was conducted to identify and address the concerns of program office employees. The survey results indicated that more than half of respondents felt that the Procurement Office provided them with useful templates and set clear expectations and deadlines. The survey results also indicated that the Procurement Office can improve its communication of changes in the procurement process. The survey results the Procurement Office shared with us corresponded with the strengths and areas for improvement described to us in our interviews with program office employees.

GAO's *Framework for Assessing the Acquisition Function at Federal Agencies* states that agencies should integrate acquisition planning with and across the different agency entities that have a role in acquisitions. This report also states that consistently applied, clear, and transparent policies are required to reach desired strategic outcomes. GAO's *Standards for Internal Control in the Federal Government* states that management should communicate the necessary quality information to achieve objectives. The FAR states that the participants in the acquisition process should work together as a team and should be empowered to make decisions.

Although the Procurement Office holds weekly planning calls, the calls may not include all program office employees involved in the early stages of an acquisition. The Procurement Office continues to evolve its training efforts to address program office needs, but program office employees indicated that they would like to receive additional information, noting that acquisitions can be slowed down when communication is incomplete. For example, one program office employee told us about an instance in which an acquisition was held up, but the employee was not notified. This employee stated that if she had known the acquisition was held up, she would have followed up to help move the acquisition forward.

Additional training and consistent communication between the program offices and the Procurement Office can keep program offices better informed about the status of their acquisitions and may allow them to better direct resources to move acquisitions forward, potentially improving the efficiency of the procurement process.

Recommendations

We recommend that the Assistant Director for Procurement

5. Update the *Policy for Acquisition Planning* to include a requirement to track acquisition lead times.
6. Enhance existing policy and training to improve ongoing communication between Procurement Office and program office employees, including better informing the program offices of their role in the acquisition process and the status of their acquisitions.

Management's Response

In its response, the CFPB concurs with our recommendations. In the email that transmitted the official response, the CFPB states that the *Policy for Acquisition Planning* will be updated to include a requirement to track procurement lead times. Additionally, the Procurement Office has taken the lead, with other CFPB offices, to develop an acquisition process map, a help guide, and an internal website with resources dedicated to helping program office employees understand what is required of them and how to track where things are in the entire acquisition process.

OIG Comment

We believe that the actions described by the CFPB are responsive to our recommendations. We intend to follow up on the CFPB's actions to ensure that the recommendations are fully addressed.

Appendix A

Scope and Methodology

To accomplish our objective, we selected and assessed a nonstatistical, risk-based sample of 27 contract awards totaling \$9.9 million in action obligations, as described below. We assessed these contract actions and the relevant contract preaward and award documentation, such as the Acquisition Plans, source selection documents, sole-source justifications, and Determination and Findings documents contained in the contract files.

This sample consisted of 12 sole-source contract awards and 15 contracts competitively awarded (8 best value by tradeoff determinations and 7 lowest price, technically acceptable contract awards). Of the competitive contract awards, 5 were set aside for small businesses.

We reviewed sections of the FAR applicable to contract preaward and award processes, as well as Procurement Office policies and other CFPB guidance, such as position descriptions, organizational charts, and training materials. In addition, we examined relevant reports from GAO and the CFPB's independent auditor, as well as our own prior reports on the CFPB's contracting, solicitation, and selection processes and the CFPB's contract management.

We reviewed guidance, processes, and reporting for information systems used in the contract preaward and award processes, including the Federal Procurement Data System, as well as controls, where applicable. In addition, we reviewed the warrant levels for COs assigned to the contracts in our sample.

We interviewed Procurement Office and program office employees, including the Chief Procurement Officer, the Deputy Assistant Director for Procurement, COs, the Competition Advocate, evaluation team members from program offices, and the Small Business Specialist. We also conducted follow-up interviews with COs to determine the resolution of any potential issues we identified.

In FY 2015, the CFPB obligated \$244.1 million via 1,452 contract actions. Of these, 701 actions obligating \$60.8 million were awarded by the Procurement Office, with the remaining 751 contract actions obligating \$183.4 million awarded by BFS or GSA on behalf of the CFPB.¹⁷ These contract actions included new contracts awarded in FY 2015 and in prior years, as well as orders placed against them and any modifications executed in FY 2015. We excluded from our scope contracts originally awarded in prior years, orders placed against contracts from prior years, and modifications. See table A-1 for a breakdown of the population and sample selection.

17. The CFPB's headquarters renovation involved 20 contract actions awarded by GSA valued at \$105.8 million. Amounts do not total because of rounding.

Table A-1: Contract Action Universe and Sample Tested, FY 2015

Universe and sample	Contract action type	Number of contract actions	Action obligation (\$)	Base + all options (\$)
Sample universe by category	Sole source	43	3,323,907	6,331,755
	Best value by tradeoff	33	1,726,709	7,348,304
	Lowest price, technically acceptable	88	12,022,814	31,333,355
Total		164	17,073,429	45,013,414
Sample selection	Sole source	12	1,798,636	4,438,774
	Best value by tradeoff	8	1,521,509	5,597,164
	Lowest price, technically acceptable	7	6,581,521	16,088,152
Total		27	9,901,666	26,124,090

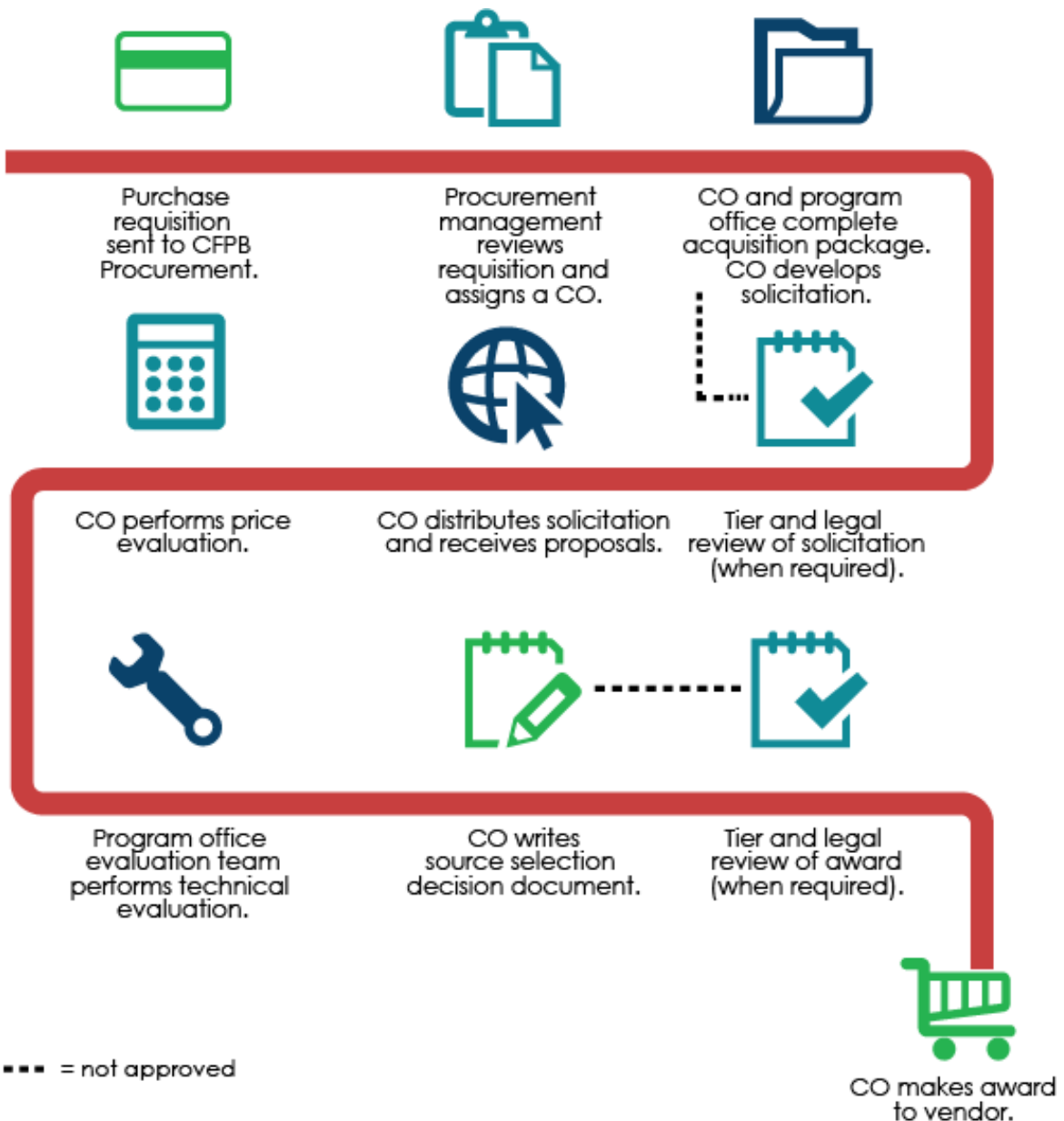
Source: OIG analysis of Federal Procurement Data System data for the CFPB for FY 2015.

We conducted our fieldwork from March 2016 to November 2016. We conducted this performance audit 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 our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B

Overview of the CFPB's Contract Award Process

Figure B-1: Overview of the CFPB's Contract Award Process



Source: OIG analysis of CFPB policies, procedures, and guidance.

Appendix C

Management's Response



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, DC 20552

March 29, 2017

Dear Mr. Bialek,

Thank you for the opportunity to review and comment on the Office of Inspector General's draft report entitled *The CFPB Can Strengthen Contract Award Controls and Administrative Processes*. We have reviewed the report and concur with the recommendations.

The Consumer Financial Protection Bureau's (CFPB) Office of Procurement continues to enhance processes and execute contract actions to provide goods and services in support of the Bureau's mission. We are pleased that you agree our office is compliant with applicable laws, regulations, and CFPB policies and procedures related to contract pre-award and award process controls. We also appreciate the thorough efforts of your staff in reviewing our portfolio of new contract awards during the fiscal year 2015 testing period, which in this case was approximately 58% of all dollars obligated by my office for new contracts.

Since the period from which the sampling of contracts occurred, Procurement leadership has emphasized the effectiveness of using more robust validation techniques for determining price to be fair and reasonable on certain sole source contracts to include expert witness support. Additionally, my office is testing an automated solution to track acquisition lead times for all procurements supporting the Bureau. These two examples, along with our plans to address the recommendations as outlined in the report, will continue to contribute to our strong record with respect to contract award processes at the Bureau.

Sincerely,

A handwritten signature in blue ink that reads 'David P. Gragan'. The signature is written over a horizontal line.

David P. Gragan
Senior Procurement Executive
CFPB Office of Procurement

consumerfinance.gov



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