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Management Assistance Report: Dispersal of Contracting Officer Representatives Creates Oversight Challenges

MANAGEMENT ASSISTANCE REPORT

Summary of Review

The Department of State (Department) spends substantial resources on contracts; in FY 2017 alone, the Department's obligations included \$15.5 billion for contractual services and supplies.¹ To use taxpayer resources prudently, the Department must ensure that contractors are appropriately selected, work is properly conducted and monitored, contract objectives are achieved, and costs are effectively contained. Despite its importance, contract oversight continues to be a significant management challenge for the Department.²

OIG conducted this management assistance review to help the Department address this challenge and, to do so, evaluated OIG findings in recent inspection and audit reports that addressed the performance of contracting officer representative (COR) duties. OIG focused on this aspect of contract oversight because of the critical role performed by CORs. In particular, CORs assure that contractors meet contract performance terms (quality, quantity, schedule, and cost) and that, more generally, overall contractual requirements are met. OIG sought to determine what underlying factors might have contributed to, or caused, deficiencies in the performance of COR duties and whether actionable recommendations can be made to address those underlying factors.

OIG inspections of overseas missions and domestic bureaus routinely assess COR performance. OIG reviewed inspection reports published from January 2016 through December 2017 and found that 36 percent (15 out of 42) contained findings related to CORs. These included CORs who did not monitor contractors' technical progress, did not properly review contractors' invoices before approving them for payment, and did not maintain complete COR files. Several recent OIG audit reports regarding contracting matters contained similar findings. OIG concluded that insufficient oversight of CORs by contracting officers contributed to the problems described in OIG's inspection and audit reports.

Although there are a variety of factors that contribute to oversight difficulties, one significant issue is the dispersal of CORs across the Department's overseas missions and domestic bureaus while contracting officers and Office of the Procurement Executive (A/OPE) specialists charged with overseeing them often work elsewhere. The Department has attempted to address this concern at least in part by deploying a system to electronically store contract files that CORs previously had kept in hard copy or in separate bureau or mission-based electronic programs; this approach, in short, permits remote monitoring. However, OIG found that the Department did not require CORs to use this system. OIG accordingly recommended that the Department issue guidance to require CORs maintain their contract files in the electronic contracting officer representative filing system within 90 days of the final issuance of this report. Although this recommendation alone will not resolve all concerns regarding COR oversight, it is an important step in that process. In its comments on this draft report, the Bureau of Administration disagreed with the 90-day timeline to require all CORs to maintain files in the electronic filing system. OIG considers the recommendation unresolved. The

¹ Department of State, Agency Financial Report (Fiscal Year 2017).

² OIG, *Fiscal Year 2017 Inspector General Statement on the Department of State's Major Management and Performance Challenges, Fiscal Year 2017* (OIG-EX-18-02, November 2017).

bureau's response to the recommendation and OIG's reply can be found in the Recommendations section of this report. The bureau's formal written response is reprinted in its entirety in Appendix B.

BACKGROUND

Federal Acquisition Regulations (FAR) 1.601 and 1.602-2 give Federal agencies authority to enter into contracts and responsibility for overseeing those contracts. The FAR states that contracts may only be entered into by contracting officers with a proper delegation and that contracting officers must perform necessary functions to oversee those contracts. Contract oversight duties include monitoring contractor technical progress; reviewing and approving contractor invoices; tracking the amount spent on contracts; and maintaining contract files to demonstrate performance of these duties.³ Contracting officers may appoint CORs to assist with these oversight duties, provided those individuals meet training and experience requirements.⁴

The Bureau of Administration Office of the Procurement Executive (A/OPE) is responsible for overseeing the Department's overall contracting activities, including activities by both contracting officers and CORs. As outlined in 1 Foreign Affairs Manual (FAM) 212.2b(1, 7, 8, 12) and 14 Foreign Affairs Handbook (FAH)-2 H-143.1h, A/OPE appoints contracting officers, certifies that CORs meet training and experience requirements, conducts oversight reviews of contracting officer and COR activities, and establishes the Department's contracting policies. According to A/OPE, the Department has 3,520 CORs, of which 1,666 work in overseas missions and 1,704 in domestic bureaus. A/OPE was unable to account for the remaining 150 CORs.⁵

Contract oversight is an ongoing Department challenge, as described in the Inspector General's statements on the Department's management and performance challenges for the past 10 years.⁶ In 2014, OIG issued a management alert that particularly highlighted deficiencies in the Department's contract files, including files that were incomplete or could not be located.⁷ Contract files are an important aspect of the Department's overall contract oversight efforts because they contain documentation of contracting officer and COR activities and the evidence on which those individuals relied to monitor the contractors' technical progress. To address these deficiencies, OIG recommended in the 2014 management alert that A/OPE randomly sample COR files to verify their completeness. In another 2014 report, OIG recommended that the Department implement a centralized electronic system to maintain contract files in order to

³ FAR 1.602-2, FAR 1.604, 14 Foreign Affairs Handbook (FAH)-2 H-121, and 14 FAH-2 H-142.

⁴ FAR 1.602-2d(2).

⁵ A/OPE told OIG that its COR tracking database contained inaccuracies and omissions.

⁶ OIG, *Inspector General Statement on the Department of State's Major Management and Performance Challenges, FYs 2008 to 2017*.

⁷ OIG, *Management Alert: Contract File Management Deficiencies* (MA-A-0002, March 2014).

ensure that those files were easily accessible for both those working on the contract and for those reviewing their work.⁸

In response to the findings and recommendations in OIG's reports, the Department has taken steps to improve contract oversight and COR performance. For example, the Department piloted and deployed an electronic web-based COR filing system to provide A/OPE specialists and contracting officers with the ability to remotely review COR performance and to review files that had, until then, been maintained only in hard copy or in mission- or bureau-based electronic programs. However, because OIG continues to identify weaknesses in COR performance during its inspections and audits, OIG conducted this management assistance review to determine what underlying factors contributed to, or caused, these ongoing weaknesses and what actionable recommendations could be made to address those underlying causes.

FINDINGS

Findings From Recent Inspection and Audit Reports Showed Oversight of Contracting Officer Representatives is a Challenge for the Department, Particularly In Light of Their Dispersal

OIG's review of overseas mission and domestic bureau inspection reports published from January 2016 through December 2017 found that 36 percent (15 out of 42) contained findings related to CORs.⁹ These included CORs who did not monitor contractors' technical progress, did not properly review contractors' invoices before approving them for payment, and did not maintain complete COR files. In Embassy Accra,¹⁰ for example, only one of the six CORs properly monitored contractors' progress and maintained complete COR files. In Embassy Beijing,¹¹ some designated CORs neither monitored contractors' progress nor maintained related monitoring documentation in the COR files. Of the 26 COR files OIG reviewed in Turkey,¹² only 11 were complete. OIG also found that the staff overseeing contractors at several overseas missions lacked the formal designation and training to do so.¹³

⁸ OIG, *Audit of the Contract Closeout Process for Contracts Supporting the U.S. Mission in Iraq* (AUD-MERO-14-06, December 2013).

⁹ Because OIG's inspections of overseas missions and domestic bureaus routinely assess COR performance, OIG reviewed all such reports issued over a 2-year period for this inspection.

¹⁰ OIG, *Inspection of Embassy Accra, Ghana* (ISP-I-17-17, June 2017).

¹¹ OIG, *Inspection of Embassy Beijing, China* (ISP-I-18-04, December 2017).

¹² OIG, *Inspection of Embassy Ankara, Turkey* (ISP-I-16-24A, September 2016).

¹³ In some cases, CORs were not formally designated; in other cases, COR designations were not accurately reflected in either the COR files or A/OPE's database. The database is used to ensure designated CORs receive required training.

Several recent OIG audit reports contained similar findings.¹⁴ For example, an audit of select local guard force contract invoices¹⁵ found instances in which CORs had approved invoices without examining required supporting documentation. Similarly, in an audit of information technology contracts administered by the Bureau of Consular Affairs,¹⁶ OIG found that COR files did not include all documents required to support invoice payments leading OIG to question costs totaling \$25 million. In addition, an audit of a contract for services in Iraq¹⁷ found inadequate supporting documentation for 77 percent of the invoices OIG reviewed.

In assessing these COR-related findings in the inspection and audit reports during this management assistance review, OIG determined that insufficient oversight by contracting officers contributed to the CORs' performance deficiencies. A significant factor contributing to the challenge of providing sufficient oversight is CORs' dispersal across the Department's overseas missions and domestic bureaus. This effectively limits the ability of contracting officers and A/OPE oversight specialists to physically oversee the CORs' performance. For example, contracting officers in the Bureau of Administration Office of Acquisitions Management (A/LM/AQM), located in Washington, D.C., award a significant number of the Department's contracts (approximately 90 percent by dollar value). A/LM/AQM officials told OIG that, given workload and logistics, contracting officers generally cannot travel overseas to review CORs' performance. Additionally, although domestic bureau CORs work in the same time zone as their contracting officers, they generally work in different bureaus, which also hinders proper COR oversight. Officials in A/OPE also saw this as a challenge, telling OIG that the dispersal of CORs across the Department's missions and bureaus limits its ability to oversee COR performance.

Mandating Use of the Department's Electronic Filing System Would Mitigate Some of the Obstacles Posed By Dispersal of Contracting Officer Representatives

To allow contracting officers and A/OPE specialists to more easily oversee COR performance remotely, the Department developed an electronic COR filing system. The system gives users the ability to review the many contract monitoring documents that CORs file in the system to demonstrate their oversight of contractor performance.¹⁸

¹⁴ See Appendix A for a description of the methodology OIG used to choose the audit reports to review.

¹⁵ OIG, *Audit of Invoices Submitted by Torres Advanced Enterprise Solutions LLC, for Select Local Guard Force Contracts* (AUD-CGI-17-63, September 2017).

¹⁶ OIG, *Audit of the Bureau of Consular Affairs, Office of Consular Systems and Technology, Administration of Selected Information Technology Contracts* (AUD-CGI-17-38, May 2017).

¹⁷ OIG, *Audit of the Department of State's Contract to Monitor Foreign Assistance Programs in Iraq* (AUD-MERO-17-41, May 2017).

¹⁸ As outlined in 14 FAH-2 H-517, CORs must maintain the following documents: the COR's letter of designation outlining the COR's duties and responsibilities; contractor-provided progress reports; documentation of acceptability/unacceptability of deliverables; documentation of the COR's on-site visits; copies of any memoranda regarding periodic performance affecting payment; copies of all invoices; a payment register indicating the balance of funds remaining; and, the COR's final assessment of the contractor's performance.

The Department spent approximately \$3.4 million¹⁹ from FY 2015 through FY 2017 designing, piloting, enhancing, and deploying the system. However, at the time of the inspection, A/OPE did not require CORs to use the system,²⁰ and it had not developed a timeline for doing so. A/OPE officials told OIG that they did not yet require its use because they believed the system needed additional enhancements based on user feedback, which would require additional funding.

OIG found, however, that the Bureau of Administration Office of Program Management and Policy, which oversaw the system's development, had released a number of system enhancements based on users' comments. In addition, it began training CORs to use the system in 2015. As of September 30, 2017, it had trained 815 CORs and other users.²¹ Moreover, officials in A/LM/AQM stated that the absence of any requirement to use the electronic system dissuaded CORs from doing so. These officials told OIG that requiring CORs to use the electronic system would greatly improve contracting officers' ability to oversee performance. Although they acknowledged that improvements could be made to the system, they stated that, even with its limitations, using the current system would be better than not using it at all. The Office of Program Management and Policy also supported such a requirement, telling OIG that the absence of a requirement hindered the system's adoption by the Department overall.²²

OIG agrees. If CORs had been using the COR filing system and contracting officers and A/OPE specialists had been conducting oversight by reviewing documents filed by the CORs, many of the problems identified in OIG inspection and audit reports, as described above, might have been mitigated. For example, the absence of monthly progress reports in electronic COR files for a contract ongoing at Embassy Beijing²³ could have alerted the contracting officer, who worked outside the country, to COR monitoring deficiencies. A/OPE specialist access to electronic COR files for contracts at Embassy Accra in Ghana²⁴ could have disclosed the absence of contract file documentation and led to the discovery that neither the COR nor the Accra-based contracting officer was adequately overseeing contracts. Effective contract oversight at embassies located in countries with endemic corruption, such as Ghana, is particularly important.²⁵ Finally, because electronic COR files contain a data field for the COR's letter of designation, contracting officers

¹⁹ Information on this point was provided by the Bureau of Administration Office of Logistics Management.

²⁰ According to 14 FAH-2 H-142b(16), CORs "may" use the system once it is deployed.

²¹ OIG did not assess the system itself, such as ease of use, system controls, or compatibility with other systems during this inspection.

²² The Office of Program Management and Policy's system documentation from May 2016 and April 2017 highlighted the absence of any use requirement as a "realized risk" to the system's adoption, in part because CORs, uncertain about which method was the system of record, thought that they would still have to maintain hard copy files if they began using the new system.

²³ ISP-I-18-04, December 2017.

²⁴ ISP-I-17-17, June 2017.

²⁵ As noted in OIG's inspection (ISP-I-17-17, June 2017), corruption in Ghana was a serious and worsening issue and the lack of file documentation and contracting officer reviews of the embassy's contract files increased the risk of fraud.

and A/OPE specialists could have determined that some CORs lacked the formal designation and training to do so.

The lack of a requirement that CORs use the electronic system also impeded the Department's efforts to centralize all COR files.²⁶ Several bureaus use separate electronic tools and maintain their own electronic COR files in programs outside of the Department's recently developed system.²⁷ So long as there is no Department-wide requirement to use the new system, bureaus may well continue to develop their own tools.

Based on the findings in OIG's previous reports and on the additional information collected during this inspection, OIG concluded that COR oversight would be enhanced by implementing a requirement for CORs to use the electronic filing system. The Department developed this system to improve contract oversight generally—a significant management challenge—and to increase contracting officers' and A/OPE specialists' oversight of COR performance. Failing to require all CORs to use the Department's electronic system continues to limit oversight of important contracting duties, which can result in excessive costs, misuse of U.S. Government resources, and substandard contractor performance. Although taking this step will not address all of the weaknesses in COR performance, it is an important and necessary step in improving oversight of their work.

Recommendation 1: The Bureau of Administration should issue guidance to require contracting officer representatives to maintain contract files in the electronic contracting officer representative filing system within 180 days of the final issuance of this report.
(Action: A)

²⁶ According to the Department's 2014 Acquisition Human Capital Plan, "integrating all contract documentation in the Integrated Logistics Management System would allow for the centralization of all procurement related documentation...in one place, leading to a standardized process for contract file management across the Department's acquisitions workforce."

²⁷ The Bureaus of Information Resources Management, Diplomatic Security, Near Eastern Affairs, International Narcotics and Law Enforcement Affairs, and Consular Affairs all have their own COR filing tools.

RECOMMENDATION

OIG provided a draft of this report to Department stakeholders for their review and comment on the findings and recommendation. OIG issued the following recommendation to the Bureau of Administration. The Department's complete response can be found in Appendix B.

Recommendation 1: The Bureau of Administration should issue guidance to require contracting officer representatives to maintain contract files in the electronic contracting officer representative filing system within 180 days of the final issuance of this report. (Action: A)

Management Response: In its July 31, 2018, response, the Bureau of Administration disagreed with the original 90-day implementation schedule recommended by OIG. The bureau stated that it had deployed the electronic filing system to 815 domestic and overseas users but had suspended deployment in July 2017 due to lack of funding. However, the bureau expected to resume deployment with two domestic bureaus through the end of FY 2018. In addition, based on anticipated funding levels for future fiscal years, the bureau expected to complete deployment of the system to all domestic users by the end of FY 2020 and to overseas users afterwards. The Bureau of Administration also indicated that all domestic users could apply for and gain access to the system by working with their contracting officers. Also, users could take advantage of the self-directed training tools to learn how to upload files into the system.

OIG Reply: OIG considers the recommendation unresolved. Based on the Department's comments, OIG revised the recommendation to give the Bureau of Administration 180 days to issue guidance requiring contracting officer representatives store files in the Department-sanctioned electronic filing system. The recommendation can be closed when OIG receives and accepts documentation that the bureau has issued such guidance.

APPENDIX A: OBJECTIVES, SCOPE, AND METHODOLOGY

This inspection was conducted between January 2 and April 9, 2018, in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2012 by the Council of the Inspectors General on Integrity and Efficiency, and the Inspector's Handbook, as issued by OIG for the Department and the Broadcasting Board of Governors.

The Office of Inspections provides the Secretary of State, the Chairman of the Broadcasting Board of Governors, and the Congress with systematic and independent evaluations of the operations of the Department and the Broadcasting Board of Governors. Consistent with Section 209 of the Foreign Service Act of 1980, OIG conducted this inspection to determine: which OIG inspection and audit reports contained findings related to the performance of COR duties; what underlying factors contributed to or caused deficiencies in the performance of COR duties; and, what actionable recommendations can be made to address the underlying causes for deficiencies.

To address its objectives, OIG reviewed OIG inspection reports issued from January 2016 through December 2017, select OIG audit reports,²⁸ and other documentation relevant to the review. OIG used professional judgment, along with documentary, testimonial, and analytical evidence collected or generated, to develop its findings and an actionable recommendation.

Kristene McMinn and Hanane Grini conducted this inspection.

²⁸ OIG reviewed audit reports referenced in the "Oversight of Contracts, Grants, and Foreign Assistance" challenge in OIG's *Fiscal Year 2017 Inspector General Statement on the Department of State's Major Management and Performance Challenges, Fiscal Year 2017* (OIG-EX-18-02, November 2017). In addition, OIG reviewed contract-related audit reports issued from October 2017 through January 2018 to capture reports issued after the publication of OIG-EX-18-02. In total, OIG reviewed nine audit reports for this management assistance review.

APPENDIX B: MANAGEMENT RESPONSES



United States Department of State

Washington, D.C. 20520

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July 31, 2018

MEMORANDUM

TO: OIG/ISP – Sandra Lewis

FROM: A/LM – David Rodriguez, Acting

SUBJECT: Draft Report – *OIG Management Assistance Report: Dispersal of Contracting Officer Representatives Creates Oversight Challenges*

Thank you for the opportunity to provide our comments on the subject draft OIG Management Assistance Report.

OIG Recommendation 1: The Bureau of Administration should require contracting officer representatives to maintain contract files in the electronic contracting officer representative filing system within 90 days of the final issuance of this report.

Management Response to Draft Report (07/31/2018): In July 2018, the Bureau of Administration reinstated contracting officer representative (COR) eFiling deployment, which builds the foundation for a future department-wide mandate. In accordance with AUD-MERO 14-06 we have been updating OIG regarding eFiling in general updates as we work towards that goal, but we are unable to concur with a 90-day complete implementation schedule.

After deploying COR eFiling to approximately 815 domestic and overseas users through Q3 of FY17, A/LM was forced to suspend COR eFiling deployment in July 2017 due to lack of funding. In July 2018, A/LM reinstated domestic COR eFiling deployment with two targeted domestic bureaus, Diplomatic Security and Consular Affairs, which will take place throughout Q4 of FY18. Before resuming deployment, A/LM partnered with A/OPE to overhaul the COR eFiling training course, co-authoring training materials to incorporate policy reminders and best-practices alongside system instruction. COR policy experts from A/OPE will also join training courses in FY18 to help with instruction.

Based on anticipated funding levels for future fiscal years, we expect to deploy COR eFiling to all domestic users by the end of FY20. A/LM will focus on

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deployment of overseas COR eFiling upon the conclusion of domestic deployment. In the interim, all domestic eFiling users have the ability to apply for access to ILMS COR eFiling through the ILMS Access Request Form. Users may coordinate with their contracting officers to be assigned electronically to their respective contracts. A/LM maintains eFiling training materials on the ILMS Knowledge Center for self-directed learning.

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