



OFFICE OF INSPECTOR GENERAL

UNITED STATES POSTAL SERVICE

Competition Advocate

Audit Report

Report Number
SM-AR-14-008

August 14, 2014





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UNITED STATES POSTAL SERVICE

Highlights

For 35 of the 74 contractual actions, the advocate provided feedback on ways to increase competition, but there are no metrics to determine the impact of this feedback.

Background

The U.S. Postal Service established the competition advocate (advocate) on January 28, 2011. The advocate promotes competition by helping contracting officials develop effective ways to obtain best value in contracting and issuing an annual report on noncompetitive purchase activity. The advocate must review noncompetitive requests for contractual actions (steps to create or modify a contract) greater than \$1 million. The advocate does not approve or deny noncompetitive purchases but offers feedback to contracting officers (CO) on how to increase competition, including how to transition work to internal resources and research potential suppliers. COs are supposed to consider this feedback when evaluating whether the Postal Service should compete a contract. The advocate does not decide appeals by contractors.

The Postal Service issued 1,182 noncompetitive contractual actions, totaling about \$523 million, from October 2012 through December 2013. Of these, 74 (6 percent), totaling about \$417 million (80 percent), exceeded \$1 million. Our objective was to evaluate the advocate's impact in promoting contract competition.

What the OIG Found

We could not determine the advocate's impact in promoting contract competition because the Postal Service does not have metrics to measure advocate performance. For example, for 35 of the 74 contractual actions, the advocate provided feedback on ways to increase competition, but there are no metrics to determine the impact of this feedback. Without such metrics, the Postal Service cannot accurately gauge the

The Postal Service issued 1,182 noncompetitive contractual actions totaling \$522,801,089 from October 2012 thru December 2013.

Slide your cursor over the pie charts below to see how it breaks out





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advocate's success in promoting competition. In addition, the advocate did not review requests for 12 of the 74 contractual actions, totaling about \$40 million. This occurred because there is no process to ensure that the advocate reviews all applicable requests. These actions were awarded without an opportunity for the advocate to suggest ways to promote competition.

Further, COs did not document their consideration of the advocate's comments on requests for two contractual actions, totaling about \$2.8 million. This occurred because Postal Service policy does not explicitly state how the CO should document responses to the advocate's comments.

What the OIG Recommended

We recommended management develop metrics to gauge the impact of the advocate, reiterate the requirement to obtain the advocate's review of applicable requests, and establish a process to verify that the advocate reviewed all applicable noncompetitive actions. We also recommended management clarify how COs should address the advocate's feedback.

Transmittal Letter



OFFICE OF INSPECTOR GENERAL
UNITED STATES POSTAL SERVICE

August 14, 2014

MEMORANDUM FOR: SUSAN M. BROWNELL
VICE PRESIDENT, SUPPLY MANAGEMENT

A rectangular box containing a handwritten signature in black ink that reads "John E. Cihota". A small black dot is visible in the upper right corner of the box.

FROM: John E. Cihota
Deputy Assistant Inspector General
for Finance and Supply Management

SUBJECT: Audit Report – Competition Advocate
(Report Number SM-AR-14-008)

This report presents the results of our audit of the Competition Advocate (advocate). Specifically, we conducted the audit to determine the impact of the advocate in promoting contract competition (Project Number 14YG005SM000).

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Keshia L. Trafton, director, Supply Management and Facilities, or me at 703-248-2100.

Attachment

cc: Corporate Audit and Response Management

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Findings

Introduction

This report presents the results of our self-initiated audit of the Competition Advocate (advocate) (Project Number 14YG005SM000). Our audit objective was to evaluate the impact of the advocate in promoting contract competition. See [Appendix A](#) for additional information about this audit.

The U.S. Postal Service established the advocate on January 28, 2011. The advocate promotes competition by helping contracting officials develop effective ways to obtain best value in contracting and issuing an annual report on noncompetitive purchase activity. The advocate must also review noncompetitive purchase requests (NPR) for contractual actions¹ exceeding \$1 million. The advocate does not approve or deny noncompetitive purchases but offers feedback to contracting officers (CO) on how to increase competition. The COs are supposed to consider these comments when evaluating whether the Postal Service should compete a contract. The advocate is not responsible for deciding appeals by contractors.

The Postal Service issued 1,182 noncompetitive contractual actions totaling \$522,801,089 from October 2012 through December 2013. Of these, 74 (6 percent), totaling \$416,835,371 (80 percent), exceeded \$1 million.

Conclusion

We could not determine the advocate's impact on contract competition because the Postal Service did not establish metrics to measure the advocate's performance. For example, the advocate provided COs with feedback on ways to increase competition for 35 of the 74 contractual actions, but there are no metrics to determine the impact of this feedback. Because there are no metrics, the Postal Service cannot accurately gauge the success of the advocate in promoting contract competition.

We found the advocate did not review NPRs for 12 of 74 contractual actions as required. This occurred because there is no process to ensure that the advocate reviews all applicable requests and some COs were not aware of the requirement. The Postal Service awarded the 12 actions, totaling \$39,940,970, without the advocate's review. We also found COs did not document their consideration of the advocate's comments about NPRs for two contractual actions, totaling \$2,751,075. This occurred because Postal Service policy does not explicitly state how COs should document their responses to the advocate's comments.

While we consider these amounts to be at risk, this does not necessarily indicate the Postal Service incurred losses.

¹ Oral or written statement or step taken that forms or modifies a contract, which also includes delivery orders and options.

Competition Advocate Role in Promoting Contract Competition

We could not determine the advocate's impact on contract competition because the Postal Service has not developed metrics to do so. The advocate promotes competition throughout the purchasing process and challenges barriers to competition by helping contracting officials develop effective ways to obtain best value. The advocate also produces an annual report on noncompetitive purchase activity,² which provides visibility, tracking, and reporting on the number of noncompetitive purchases and whether there has been an increase or decrease in these actions.³

However, the number or value of noncompetitive contracts awarded is not an effective measure of the advocate's impact. Budget, purchasing needs, and other circumstances heavily influence the number and dollar amount of noncompetitive contracting actions. This means that trends in noncompetitive contracting actions cannot be wholly attributed to the advocate. For example, in fiscal year 2013, the Postal Service committed \$1.4 billion of a 10-year competitive contract that it had previously awarded noncompetitively. This contract comprised 24.3 percent of all contract spending in 2013.⁴ We can attribute the 5 percent increase in competitive contract spending in 2013 to management's decision to compete that contract rather than to the advocate's actions.⁵

We found the advocate provided COs with feedback on ways to increase competition for 35⁶ of the 74 contractual actions. This included developing a timeline or concrete plan to transition work to internal resources and conducting market research to identify and evaluate potential suppliers in the marketplace. However, the advocate is not required to follow up on this feedback to determine the outcome. The advocate developed tools and processes for senior management and contracting officials that encourage competition, such as an advocate website and a report identifying contracts that will expire within 9 months. However, without metrics to gauge the advocate's performance, the Postal Service cannot accurately determine the impact of the advocate in improving the Postal Service's competitive performance.

The advocate developed tools and processes for senior management and contracting officials that encourage competition, such as a competition advocate website and a report identifying contracts that will expire within 9 months.

² Supplying Principles and Practices, Section 2-10.3.4.a, General, dated January 28, 2011.

³ The last annual report was released in Spring 2013.

⁴ Competitive contracts represented \$3,997,596,338 of \$5,064,549,395 total spending in 2012; and \$4,988,224,766 of \$5,921,006,554 total spending in 2013.

⁵ Management claimed 1 year of the 10-year contract in the annual report on noncompetitive purchase activity.

⁶ The advocate offered suggestions for future competition for 24 NPRs, affecting 35 contractual actions. The advocate does not review delivery orders for indefinite-quantity contracts or priced options.

The advocate did not review NPRs for 12 of 74 contractual actions (16 percent), valued at \$39,940,970, as required by policy.

There was no internal control or process in place, such as reconciliation between executed noncompetitive contractual actions and advocate reviews, to ensure the advocate received all NPRs for noncompetitive contractual actions over \$1 million.

Advocate's Role in the Noncompetitive Purchase Request Review

The advocate did not review NPRs for 12 of the 74 contractual actions.⁷ In addition, because there is no formal process requiring the COs to document their consideration of the advocate's comments, they did not do so for two actions.

Competition Advocate Review

The advocate did not review NPRs for 12 of 74 contractual actions (16 percent), valued at \$39,940,970, as required by policy.⁸ Specifically:

- A CO submitted an incomplete draft NPR to the advocate for guidance on completing sections of the NPR. The advocate provided basic feedback but did not review a final draft with all sections completed. The CO did not submit a final version to the advocate because he thought the draft was sufficient. The NPR was for an indefinite quantity base award contract with eight delivery orders⁹ against it, valued at \$18,721,774.
- A CO did not submit NPRs to the advocate for review for two contracts. Officials could not explain why the former manager approved the purchases without an advocate review. One option¹⁰ was exercised per contract, resulting in the award of four total contractual actions valued at \$21,219,196 without the required review.

There was no internal control or process in place, such as reconciliation between executed noncompetitive contractual actions and advocate reviews, to ensure the advocate received all NPRs for noncompetitive contractual actions over \$1 million. As a result, the Postal Service awarded these actions without the advocate's review and input on potential strategies to promote competition.

Competition helps drive cost savings, enhance service or product quality, and promote innovative solutions. Further, competition promotes fairness and openness that lead to increased public trust in the Postal Service brand. Without a control to ensure the advocate reviews all required contractual actions for opportunities to improve competition, there is increased risk the Postal Service will not achieve best value in contracting. We claimed the \$39,940,970 value of the 12 contractual actions as unsupported questioned costs because COs did not submit these NPRs to the advocate for review as required by policy.

⁷ The advocate does not review delivery orders for indefinite-quantity contracts or priced options, so missing advocate reviews for the three noncompetitive awards affected 12 total actions.

⁸ Management Instruction (MI) SP-S2-2011-1, Noncompetitive Purchase Request, dated February 7, 2011.

⁹ An order from the Postal Service to a supplier to deliver products under an existing indefinite-delivery contract.

¹⁰ A right to purchase property or require another to perform based on agreed-upon terms. An option is paid for as part of a contract but must be "exercised" in order for the property to be purchased or the performance of the other party to be required. Gerald N. Hill and Kathleen T. Hill (2014, May 8), "Option."

Current policy states that the CO only needs to consider the advocate's comments but does not explicitly state how the CO should address and document his or her response or action.

Consideration of the Competition Advocate's Review

COs' written evaluations did not address the advocate's comments on NPRs for two of 74 contractual actions (3 percent). Specifically:

- For the first contractual action, the advocate advised the CO to work with the requesting program office to develop a strategy for competing future purchases. The CO's written evaluation did not address this suggestion or indicate planned strategies to compete the next purchase.
- For the second contractual action, the advocate commented that the NPR did not include a detailed plan for future competition and recommended the Postal Service use a pilot program while addressing market research and plans for future competition. The CO's written evaluation did not address this suggestion.

Current policy states that the CO only needs to consider the advocate's comments¹¹ but does not explicitly state how the CO should address and document his or her response or action. Though some COs addressed the advocate's comments, there is little consistency in the process across Supply Management.

Because there is no formal policy governing a CO's evaluation of an advocate's comments, there is an increased risk that COs may not apply potential strategies for further competition to each purchase and may award contracts noncompetitively without full consideration of opportunities. We claimed the \$2,751,075 value of the two contractual actions as assets at risk because the COs did not respond to the advocate's comments.

¹¹ *Supplying Principles and Practices*, Section 2-10.3.5, and MI SP-S2-2011-1.

Recommendations

We recommend management develop measurable metrics to gauge the impact of the competition advocate in promoting contract competition.

We recommend the vice president, Supply Management:

1. Develop measurable metrics to gauge the impact of the competition advocate in promoting contract competition.
2. Reiterate to contracting officers the requirement that they obtain the competition advocate's independent review of applicable noncompetitive purchase requests valued at \$1 million or more.
3. Establish and implement a process for verifying that the competition advocate reviewed all applicable noncompetitive actions.
4. Issue guidance to clarify how contracting officers should address and document the competition advocate's comments on the noncompetitive purchase requests.

Management's Comments

Supply Management generally agreed with the findings, recommendations, and monetary impact.

Regarding recommendation 1, management will develop metrics to assess the advocate's impact in promoting competition, by November 30, 2014.

Regarding recommendation 2, management will issue a Supply Management communication that reiterates existing policy requiring the advocate to review NPRs valued at \$1 million or more. The target implementation date is September 30, 2014.

Regarding recommendation 3, management will implement a semiannual process to compare a report of noncompetitive contracting actions greater than \$1 million with a report of noncompetitive contracts reviewed by the advocate. Managers within Supply Management will review the reports and require COs to address any data integrity discrepancies or non-submissions. The target implementation date is March 31, 2015.

Regarding recommendation 4, management agreed to review the current policies and procedures to determine if changes are necessary and provide guidance to COs. The target implementation date is March 31, 2015. See [Appendix B](#) for management's comments, in their entirety.

Evaluation of Management's Comments

The U.S. Postal Service Office of Inspector General (OIG) considers management's comments responsive to recommendations 1, 2, and 3 and corrective actions should resolve the corresponding issues identified in the report. However, regarding recommendation 4, the OIG does not consider management's proposed action to be responsive to the recommendation. Management stated that they would review the current policies to determine if changes are necessary regarding how COs should address and document the advocate's comments on NPRs. Therefore, guidance to clarify policy will only be issued if management determines that clarification is needed. The OIG believes that, given the vagueness of the current policy on COs' evaluations, clearer guidance is needed.

Regarding recommendation 3, we want to clarify that the advocates semiannual review should compare a report of noncompetitive contracting actions greater than \$1 million with a report of NPRs reviewed by the advocate.

The OIG considers all the recommendations significant, and therefore requires OIG concurrence before closure. Consequently, the OIG requests written confirmation when corrective actions are completed. These recommendations should not be closed in the Postal Service's follow-up tracking system until the OIG provides written confirmation that the recommendations can be closed.

Appendices

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Appendix A: Additional Information

Background

The Postal Service established the advocate on January 28, 2011, to promote competition in Postal Service contracting as a result of an OIG audit,¹² which found the Postal Service could improve its noncompetitive purchasing policy. The vice president, Supply Management, assigned these duties to the manager, Supply Chain Management Strategies. The Postal Service appointed the current advocate on July 30, 2012. As in other federal agencies, the advocate promotes competition throughout the purchasing process and challenges barriers to competition by helping purchase teams develop ways to obtain best value¹³ in contracting. The advocate developed tools and processes for senior management and contracting officials that encourage competition, such as an advocate website and a report identifying contracts that will expire within 9 months. The advocate also issues an annual report on the extent of competition in Supply Management.

Though advocates at other federal agencies are required to approve large noncompetitive purchases, the Postal Service advocate is an advisor with no final approval authority over purchasing. From October 1, 2012, to December 31, 2013, there were 1,182 noncompetitive awards comprising \$522,801,089 in spending. Of these, 74 contracts (6 percent) exceeded \$1 million and totaled \$416,835,371 in spending.

When market conditions warrant a noncompetitive strategy for a purchase exceeding \$1 million, the advocate must independently review the purchase. Separate NPRs are not required for indefinite-quantity contract¹⁴ delivery orders or contract options because the value of these contractual actions is in the NPR for the original contract award. The requesting program office or purchase team develops an NPR, which must include its purpose and rationale, as well as market research and cost-estimate information. The CO considers the NPR and then sends it to the advocate. The advocate reviews the NPR and provides feedback to the CO on the rationale behind awarding the opportunity noncompetitively and may concur with the purchase method or suggest actions to promote competing the contract. A CO is required to consider the advocate's review as part of the evaluation and recommendation for the purchase method but is not required to document this consideration in his or her recommendation. If the purchase is within the CO's authority, the CO may then approve the NPR. If the estimated award amount exceeds the CO's authority, the CO forwards the purchase method recommendation to the appropriate higher authority for approval. Approvers then consider the CO's recommendation and approve the purchase method.

¹² U.S. Postal Service Purchasing Policies (Report Number CA-AR-10-005, dated September 20, 2010).

¹³ Best value is the basis of all Postal Service sourcing decisions and is determined by analyzing a contract solicitation's evaluation factors along with a price analysis.

¹⁴ A contract that provides for an indefinite quantity of specific supplies or services to be delivered during the contract period to designated locations when ordered.

Objective, Scope, and Methodology

Our objective was to evaluate the impact of the advocate in promoting contract competition. To accomplish our objective we:

- Queried the Enterprise Data Warehouse (EDW)¹⁵ to obtain all noncompetitive contractual actions for the period January 28, 2011, to December 31, 2013, to look for trends in noncompetitive awards.
- Reviewed advocate reviews of NPRs and supporting documentation for all 74 noncompetitive contractual actions greater than \$1 million for the period October 1, 2012, to December 31, 2013, totaling \$416,835,371.
- Interviewed Supply Management personnel, including current and previous advocates, regarding creation of the position, use of the advocate's reports, vision for the position when created, and the evolution of that vision. We also interviewed COs to determine why they did not submit NPRs to the advocate or address the advocate's comments.

We conducted this performance audit from November 2013 through August 2014, in accordance with generally accepted government auditing standards and included such tests of internal controls as we considered necessary under the circumstances. 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. We discussed our observations and conclusions with management on June 26, 2014, and included their comments where appropriate.

We assessed the reliability of noncompetitive contractual actions data by reviewing and comparing existing contract information we extracted from the EDW to contract documents in the Contract Authoring and Management System.¹⁶ We determined that the data were sufficiently reliable for the purposes of this report.

¹⁵ A single repository for managing all Postal Service data assets.

¹⁶ A contract writing tool that facilitates the solicitation, award, and storage of various contracts.

Prior Audit Coverage

Report Title	Report Number	Final Report Date	Monetary Impact (in millions)
<i>Noncompetitive Purchasing Practices</i>	SM-AR-13-004	9/25/2013	\$210,563,133
<p>Report Results: Contracting officials did not provide documentation to support price or cost reasonableness and justifications for awarding noncompetitive purchases for 21 of 56 purchases (38 percent) valued at \$37,064,806. Employees did not maintain sufficient documentation to support price and cost analyses, were unaware of policy, did not explore all alternatives practicable in their justifications not to compete purchases, and did not always obtain required contract documents from international suppliers due to cultural and language barriers. Further, instructions on emergency noncompetitive contracts did not include clear guidelines for contract documentation requirements. We recommended that management instruct employees to include required documentation in contract files, reiterate contracting policy, promote increased competition, clarify guidance on emergency noncompetitive contracts, and explore opportunities for reducing cultural and language barriers with international suppliers. Management agreed with most of the findings and recommendations, but disagreed with five of the contracts because they were emergency contracts and the documentation was in the file at the time of our audit. Management also disagreed with the recommendation to revise the policy for emergency noncompetitive contracts because the requirements for timeframes and responsibilities were already included.</p>			
<i>Enterprise Technology Services Program</i>	SM-AR-13-003	7/18/2013	\$77,221,508
<p>Report Results: The Postal Service did not have a system to track and measure competition and could improve controls over awarding task orders and associated modifications that were not further competed. We recommended management track opportunities to increase competition, ensure awards not competed have justifications, and update guidelines for requiring management-level review and approval of justifications to include advocate reviews of delivery orders and modifications. Management agreed with the findings and three of four recommendations. Management disagreed with the recommendation to require advocate review of delivery orders and modifications to competitive contracts because those actions are considered competitive as well, so they do not require a review by the competition advocate.</p>			

Appendix B: Management's Comments

SUSAN M. BROWNELL
VICE PRESIDENT, SUPPLY MANAGEMENT



August 5, 2014

LORI LAU DILLARD

SUBJECT: Response to Draft Audit Report – Competition Advocate
(Report Number SM-AR-14-DRAFT)

Thank you for providing the Postal Service with the opportunity to review and comment on the subject draft report. We appreciate the Office of Inspector General's (OIG) review of our Competition Advocate processes and generally agree with the findings, recommendations, and monetary impact associated with this report.

Since inception of the Competition Advocate role, the Postal Service has continued its improvement efforts for enhancing the processes and its outreach to the organization to promote competition. As mentioned within the report, tools were developed to assist with promoting competition in the form of an internal competition advocate website that provides information on the Competition Advocate roles, policy, benefits of competition, a planning checklist, and training for improving competition within the Postal Service. In addition to the annual reporting, an expired contracts report was developed to inform senior management and contracting officers of contracts expiring within nine months and is used in organization outreach activities for planning opportunities and promoting competition.

OIG Audit Recommendations:

We recommend the vice president, Supply Management:

Recommendation 1: Develop measurable metrics to gauge the impact of the competition advocate in promoting contract competition.

Management Response: Management agrees and will develop metrics that will assess the impact of the Competition Advocate's activities in promoting competition.

Target Implementation Date: November 2014.

Responsible Manager: Manager, Supply Chain Management Strategies.

Recommendation 2: Reiterate to contracting officers the requirement that they obtain the competition advocate's independent review of applicable noncompetitive purchase requests valued at \$1 million or more.

Management Response: Management agrees and will issue a Supply Management Communication that reiterates our established policy requiring requests valued at \$1 million be reviewed by the Competition Advocate.

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Target Implementation Date: September 2014.

Responsible Manager: Manager, Supply Management Infrastructure.

Recommendation 3: Establish and implement a process for verifying that the competition advocate reviewed all applicable noncompetitive actions.

Management Response: Management agrees and will implement a process where a report will be run of all noncompetitive contracting actions greater than \$1 million and reviewed against the report of noncompetitive contracts reviewed by the Competition Advocate on a semiannual basis. The report will be provided to managers within Supply Management and require contracting officers to address any data integrity or nonsubmittal discrepancies.

Target Implementation Date: March 2015.

Responsible Manager: Manager, Supply Chain Management Strategies.

Recommendation 4: Issue guidance to clarify how contracting officers should address and document the competition advocate's comments on the noncompetitive purchase requests.

Management Response: Management agrees. We will review the current policies and procedures to determine if changes are necessary and provide guidance to contracting officers.

Target Implementation Date: March 2015.

Responsible Manager: Manager, Supply Management Infrastructure.

This report and management's response does not contain proprietary or sensitive business information that may be exempt from disclosure pursuant to the Freedom of Information Act. If you have any questions about this response, please contact Susan Witt at (202) 268-4833.



cc: Corporate Audit Response Management



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