

Performance Audit Report



The SBA Used Inappropriate Contracting Practices to Reconfigure Space for the Office of International Trade



**U.S. Small Business Administration
Office of Inspector General
Washington, D.C. 20416**

REPORT TRANSMITTAL

REPORT NO. 13-12

DATE: March 26, 2013

To: Jonathan I. Carver, Chief Financial Officer
Paul T. Christy, Chief Operating Officer

SUBJECT: *The SBA Used Inappropriate Contracting Practices to Reconfigure Space for the Office of International Trade*

This report presents the results of our *Audit of the Small Business Administration's (SBA's) Procurement Process Used to Reconfigure Space for the Office of International Trade (OIT)*. Our objective was to determine whether the SBA complied with Federal Acquisition Regulations and SBA policies for the procurement of services to reconfigure the OIT office space. We have incorporated the formal comments from the Office of the Chief Financial Officer and the Office and Management and Administration into this report.

Please provide your response to this report for each recommendation on the attached SBA Form 1824, *Recommendation Action Sheet*, by April 25, 2013.

Consistent with OMB Circular A-50, your response should include the corrective action(s) taken or planned for each recommendation and the target date(s) for completion. If you disagree with the recommendations, please fully explain the reasons for disagreement. Please include the legal basis for disagreement based on interpretation of the law, regulations, or the authority of officials to take or not to take action. You may also propose alternative actions to those recommended that you believe would better address the issues presented in this report.

We appreciate the courtesies and cooperation of the OIT, Office and Management and Administration, and the Office of the Chief Financial Officer during this audit. If you have any questions concerning this report, please call me at (202) 205-7390 or Riccardo R. Buglisi, Director, Business Development Programs Group, (202) 205-7489.

John K. Needham
Assistant Inspector General for Auditing



EXECUTIVE SUMMARY:

The SBA Used Inappropriate Contracting Practices to Reconfigure Space for the Office of International Trade

March 26, 2013
Report Number 13-12

What the OIG Audited

This report presents the results of our *Audit of the Small Business Administration's (SBA) Procurement Process used to Reconfigure Space for the Office of International Trade (OIT)*. The OIG initiated this audit in response to a hotline complaint¹ that alleged the reconfiguration of the OIT space was procured improperly. The objective of the audit was to determine whether the SBA complied with Federal Acquisition Regulations (FAR) and SBA policy for the procurement of services to reconfigure OIT office space in SBA's Headquarters.

To achieve our audit objective, we examined the hotline complaint and the timeline of events related to the OIT relocation. We then compared this information to documentation in the contract file. We also interviewed SBA personnel involved in the OIT relocation, to include personnel within the offices of the Chief Financial Officer and Management and Administration.

What the OIG Found

We substantiated one of the three Hotline allegations and found that the SBA's use of an existing contract to procure the OIT reconfiguration did not comply with the FAR and SBA requirements.

Specifically, we determined that the Contracting Officer's Representative (COR) inappropriately authorized the use of an existing contract to complete the OIT reconfiguration, and in doing so exceeded his authority. Additionally, the COR failed to develop a Statement of Work (SOW) to ensure the requested work was completed in accordance with SBA's requirements. These actions occurred due to the COR's lack of understanding of his authority, which may have resulted in the Government not receiving the best value for services rendered.

Further, the COR and Contracting Officer (CO) did not review and approve the OIT invoice for the reconfiguration work in accordance with the federal regulations and SBA's policy. Consequently, neither realized that the OIT work was outside the scope of the electrical contract and corrective action was not taken. As a result, the Government's best interests may not have been protected and the contractor may have been overpaid for the work performed.

OIG Recommendations and Agency Comments

The OIG recommended four actions, specifically that:

The Chief Financial Officer²-

1. Implement procedures to ensure that COs and CORs properly review invoices for compliance with the terms of the contract and the scope of work.
2. Direct the CO, for purchase order SBAHQ-11-M-0018, to review all invoices and make a determination of whether all the work that was billed to the SBA was actually performed. If not, the CO should take appropriate action.
3. Implement procedures to ensure the COs and CORs maintain supporting documentation of contract actions in the contract files as required by the FAR, and that

The Chief Operating Officer -

4. Perform a review of the purchase order discussed in this report, focusing on the authority of the COR. If appropriate, initiate appropriate administrative action against the COR assigned to the purchase order.

On February 14-15, 2013, management submitted formal comments and generally concurred with our findings and recommendations, although the CFO did not specifically state concurrence.

¹ Hotline Identification Number 9301.

² Designated as the Chief Acquisition Officer.

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Introduction

This report presents the results of our audit on *the Small Business Administration's (SBA) Procurement Process used to Reconfigure Space for the Office of International Trade (OIT)*. We initiated this audit in response to a hotline complaint³ related to the reconfiguration of the office space for the SBA's Office of International Trade. The allegations included concerns that (1) the construction to reconfigure the office space was completed before the award of a contract for the work, (2) the funds used to pay the contractor for the work were diverted from another unrelated contract, and (3) a government purchase card was used to pay for some aspects of the construction work.

We determined that allegations 1 and 2 were unsubstantiated; however, we found the SBA did not comply with federal regulations and SBA policy by using an existing, unrelated contract to procure the OIT reconfiguration. This report focuses on the issues pertaining to the SBA's administration and use of an existing contract to procure the OIT reconfiguration. Regarding the third allegation, we found that the inappropriate use of the government purchase card for construction transactions extended beyond the OIT space reconfiguration. Therefore, we previously issued a separate advisory memorandum⁴ to bring this matter to management's attention.

Objectives

The objective of this audit was to determine whether the SBA complied with Federal Acquisition Regulations (FAR) and SBA policy for the procurement of services to reconfigure the OIT office space in SBA's Headquarters. For this report, the OIG examined the initial hotline complaint and the timeline of events related to the OIT relocation. We reviewed documentation supporting the development of the OIT requirements and the development of the potential contract. We compared this information to the documentation used to support the relocation contract. We also interviewed SBA personnel involved in the OIT reconfiguration, to include personnel within the office of the Chief Financial Officer. Further, since 2010, the SBA Administrator designated the Chief Financial Officer as the agency's Chief Acquisition Officer whose primary duty is acquisition management.⁵ We also interviewed personnel within the Office of Management and Administration.

We conducted this audit in accordance with generally accepted government auditing standards between January 2012 and January 2013. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. See Appendix I for a detailed description of our scope and methodology.

³ Hotline Identification Number 9301.

⁴ Previously reported to SBA management in OIG [Audit Report 12-16](#), issued August 6, 2012.

⁵ 41 U.S.C. 1702(b).

Background

Office of International Trade

In February 2011, the OIT was realigned from the Office of Capital Access and established as its own independent office within the SBA. As an independent office, the agency also added the position of Associate Administrator for OIT who reports directly to the SBA Administrator. Due to its new structure and staffing needs, the OIT needed to be relocated within the SBA Headquarters building. The OIT subsequently began coordinating with the Office of Administrative Services (OAS), an office within the Office of Management and Administration, to identify a location for their office space. Once space was identified, OIT officials documented modifications that were needed within the space. Officials from the OIT then coordinated with the OAS and the Acquisition Division to award a contract to complete the reconfiguration work and relocate the OIT. However, the contract details were not provided to the Acquisition Division in time to award the contract by the specified deadline established in the Fiscal Year 2011 Year-End Closing Instructions.⁶

For Fiscal Year 2011, the Acquisition Division stipulated a deadline of July 8, 2011, for all open market procurements between \$25,000 and \$150,000. This meant that all contract documentation had to be provided to the Acquisition Division by July 8, 2011, for the contracts to be awarded by the end of FY 2011. These deadlines applied to the OIT contract. The OIT reconfiguration was originally planned and estimated to cost \$60,000; however, due to the coordination between the OIT and the OAS, the information was not submitted to the Acquisition Division until August 2011. This was past the July deadline to award a contract.

Once management from OAS realized the contract was not going to be awarded in time to meet the needs of the OIT move, OAS staff looked for an alternate solution to the dilemma. Additionally, procurement requirements for the OIT contract changed and no longer included certain construction work. As a result, an OAS staff member decided that an existing contract for electrical work – to which he was assigned as the Contracting Officer’s Representative (COR) – could provide the requirements for the OIT renovations. As such, he proceeded to use the “electrical” contract for the OIT work. By the time the COR directed the “electrical” contractor to perform the work, several requirements from the original estimate were no longer needed. These requirements included painting, installing office doors and hardware, and shortening the length of the conference room.

Nature of Limited or Omitted Information

Our audit only discusses the actions and contracts planned or used to relocate the OIT. When discussing the electrical contract used to fund the relocation of the OIT, we examined, but did not verify, other invoices related to that contract for scope of work.

⁶ SBA Procedural Notice 2000-795.

Review of Internal Controls

Office of Management and Budget (OMB) Circular A-123⁷ provides guidance to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on internal controls. It also requires a strengthened process for conducting management's assessment of the effectiveness of internal controls over financial reporting based on widely recognized internal control standards. During our review, we identified significant internal control weaknesses pertaining to SBA's contract management and payment process. Implementing our recommendations in this report should improve the SBA's contract management and payment controls.

Results

Finding: SBA Contracting Personnel Inappropriately Used and Administered an Existing Contract to Reconfigure the OIT Space

The COR inappropriately authorized the use of an existing electrical contract to complete the OIT reconfiguration. In doing so, the COR exceeded his authority. Additionally, for the work completed, the COR did not develop a Statement of Work (SOW) to ensure the requested work was completed and documented. These actions occurred because of the COR's lack of understanding of his delegated authority. Furthermore, the COR and Contracting Officer (CO) did not perform due diligence in reviewing and approving the OIT invoice for the reconfiguration. As a result, the SBA may have not received the best value for services rendered and paid for work that was outside the scope of the electrical contract.

According to the FAR⁸ and SBA policy,⁹ the COR has no authority to make any commitments or changes that affect price, quality, quantity, delivery or terms and conditions of a contract. Furthermore, the COR appointment letter for the electrical contract reiterates that the COR's "authority is limited and does not include commitments or changes that affect price, quality, quantity or other terms and conditions of the contract." Specifically, it states that the COR is not to "ask the contractor to change the description of services to be performed." See Appendix II for a detailed list of the COR's delegated duties.

The COR Exceeded His Contracting Authority

The COR assigned to work with the OIT for the space reconfiguration violated federal regulations, SBA policy, and the duties outlined in his COR appointment letter. The COR verbally directed the contractor to perform the work even though the work did not specifically match the scope of the electrical contract. Further, the COR did not discuss any of the changes to the scope of the contract with the CO, or document those changes in the contract file. The CO was unaware the COR had used the electrical contract for the reconfiguration of the OIT space until the OIG brought it to her attention in January 2012.

⁷ OMB Circular A-123, *Management's Responsibility for Internal Control*, December 21, 2004.

⁸ FAR Section 1.602-2, *Contracting Officer Responsibilities*.

⁹ SOP 0 11 1, *The Contract and the COR Letter*.

Upon recognizing that the original planned contract could not be awarded in time to perform the reconfiguration of the OIT space, the COR exceeded his authority by using an existing contract to complete the work. The COR reviewed the changes in requirements for the space and decided that he could use an existing “electrical contract”¹⁰ to complete the majority of the OIT space reconfiguration. He then verbally authorized the electrical contractor to perform the reconfiguration. However, the work performed was out of scope in two ways. First, the work performed using the existing electrical contract was not listed and priced in the SOW. Second, some of the OIT work exceeded, in quantity, that which was allowed by the electrical contract.

Work Performed was Out of Scope of the Existing Electrical Contract

According to the invoices submitted for the OIT work, the contractor billed the SBA for line items not listed in the existing electrical contract SOW. Furthermore, because those items were not in the contract, the prices of the line items were not negotiated. The table below lists examples of those line items and the amount billed by the contractor.

Table 1 Examples of Work Completed Without CO's Approval or Knowledge

Work Completed without CO Approval	Amount
Install 9 Whips	\$855
Install 10 Light Switches	\$990
Install 9 Data Drops	\$1635
Install 31 Patch Cords	\$775

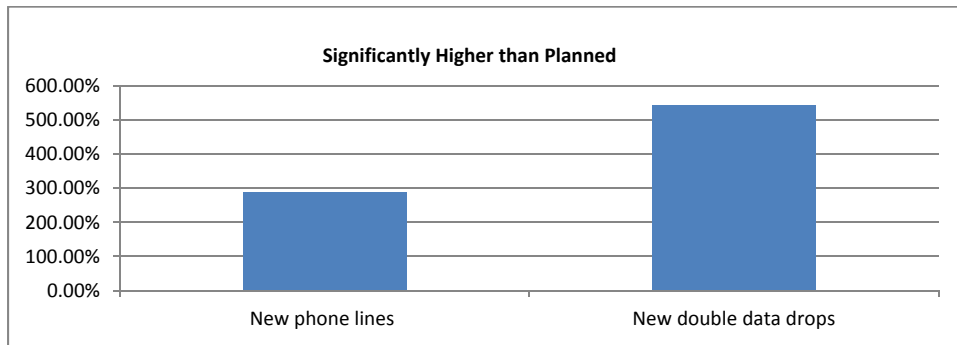
In total, the SBA paid the contractor \$6,485 for work that was not allowed under the existing contract. Furthermore, because this work was not negotiated by the CO, the SBA may have paid too much for this work.

Work Exceeded the Quantity of the Contract

Some of the work performed during the reconfiguration of the OIT office space exceeded the quantity of line items of the existing contract. The contract stipulated that if the estimated and actual quantity of a unit-priced item varied more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price would be made upon demand of either party.

¹⁰ Period of Performance (June 2011- June 2012).

Table 2 Contract Line Items for Which the Maximum Allowed Quantities Were Exceeded



The electrical contract scope included \$7,080 for new telephone lines and \$6,860 for double-ported data drops. However, the invoices submitted contained billing for \$22,615 for new telephone lines and \$37,360 for double-ported data drops. The COR did not obtain approval for the work from the CO. Had the CO been notified, the SBA could have renegotiated the prices of these line items and may have received a lower price. The COR stated he was unaware that he was not able to direct the contractor as needed, as long he did not exceed the contract dollar amount.

The COR Did Not Develop a Statement of Work for the OIT Space Reconfiguration

The COR did not develop a SOW for the electrical contract to reconfigure the OIT space. The SOW formalizes the work requirements of a contract and protects both parties of a contract because the requirements, roles, and responsibilities are clearly defined. Federal regulations¹¹ require that documents in the contract file be sufficient to constitute a complete history of the transaction. In this case, a written SOW was not prepared and the work to be performed consisted of a verbal agreement between the COR and the contractor. In this scenario, a SOW for this particular requirement would have identified the quantity and types of light fixtures to install, the quantity of outlets to install, and the quantity of data drops and phone lines to install.

The COR admitted that the invoiced quantities appeared high. However, he stated that he performed a walk-through with the contractor and was satisfied that all work verbally agreed to was performed. The OIG requested documentation supporting the invoiced amounts from the COR and the contractor, but none was provided. According to OIT staff – who had worked with the COR to develop the work requirements – they were deeply concerned with the economy of this purchase and whether the Government’s interests were protected with this procurement. Specifically, they stated the invoiced amount was only \$6,000 less than the cost of the originally planned work. However, the invoiced amount did not take into account the cost for the structural work removed from the project.

The OIT staff believed the invoiced quantity for data drops and phone lines appeared high. For example, the SBA was invoiced for 98 double-ported data drops; yet, the data-line schematic that was used to outline those that needed to be connected in the LAN room of the building

¹¹ FAR Section 4.8.

only showed 30 lines. The OIT staff stated that the moving of lines could have increased that number slightly; however, they did not feel there was any possibility that 98 drops were made.

Further, since the COR did not prepare a SOW, the CO was not aware the OIT work was being done under the auspices of the electrical contract. Had the CO been aware, she could have modified the contract, and as indicated earlier, taken advantage of the contract clause allowing an equitable adjustment in the contract price resulting in potential savings to the Government.

The COR and CO Improperly Approved Payment to the Contractor for OIT work

According to SBA's policy¹² normally, the (1) COR¹³ will be responsible for the inspection and acceptance of an invoice, and (2) the CO is responsible for certifying the invoice for payment. Additionally, the FAR¹⁴ requires "Contracting Officers to perform all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States."

The COR certified the OIT invoice and the CO approved the invoice for payment, even though work was out of scope of the electrical contract. Neither the COR nor the CO reviewed or certified the invoice, in accordance with the FAR or SBA policy. For example, the contractor submitted one invoice valued at \$54,829, related to the OIT reconfiguration. However, neither the COR nor the CO compared the billed work to the scope of the electrical contract to ensure that the work was within scope. In another example, the OIT invoice contained many items not in the original SOW, including the installation of wall-mounted televisions, new parabolic lights, and furniture base feeds. Had either the CO or the COR compared the invoiced work to the scope of the electrical contract, the discrepancies could have been identified and rectified prior to the SBA paying the contractor.

Conclusion

The SBA inappropriately used an existing contract for electrical work to reconfigure the OIT space, resulting in the breakdown of many basic contract management practices. Because the COR felt pressure to complete the OIT work, he exceeded his authority by verbally directing the contractor to perform the work even though the work did not specifically match the scope of the existing contract. This violated federal regulations and SBA policies. If this practice occurs on other contracts, the SBA runs the risk of not getting best value for services rendered.

Recommendation

We recommend that the Chief Financial Officer:¹⁵

1. Implement procedures to ensure that COs and CORs properly review invoices for compliance with the terms of the contract and the scope of work.

¹² SOP 00 11 1, *Small Purchases, Contracts, Grants and Cooperative Agreements*, Part II, Sections H, I, and J.

¹³ This SOP, dated February 26, 1986, pre-dates the Office of Federal Procurement Policy (dated September 2011) changing COTR to COR.

¹⁴ FAR Section 1.602-2, *Contracting Officer Responsibilities*.

¹⁵ Designated as the Chief Acquisition Officer.

2. Direct the CO, for purchase order SBAHQ-11-M-0018, to review all invoices and make a determination of whether all the work that was billed to the SBA was actually performed. If not, the CO should take appropriate action.
3. Implement procedures to ensure the COs and CORs maintain supporting documentation of contract actions in the contract files as required by the FAR.

We recommend that the Chief Operating Officer:

4. Perform a review of the purchase order discussed in this report, focusing on the authority of the COR. If appropriate, initiate appropriate administrative action against the COR assigned to the purchase order.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

On January 16, 2013, we provided a draft of this report to the Chief Financial Officer (CFO) and the Chief Operating Officer (COO) for comment. On February 14 and 15, 2013, the CFO and COO submitted formal comments, which are included in their entirety in Appendices III and IV.

Management Comments

The CFO did not specifically state whether he agreed or disagreed with the audit finding and Recommendations 1-3 (as required); however, his responses imply concurrence. The COO concurred with the finding and related Recommendation 4. A summary of management's comments and our response follows.

The CFO noted that two of the three conditions related to the audit finding involve the COR's actions. As a result, he requested that the OIG include OIT management and the responsible COR on the discussion of the report finding and ensuing recommendations. We did not direct the finding and the recommendations to OIT management because that office did not have a role in the decision to use the contractor or in the monitoring of the contractor. Furthermore, we addressed recommendation 4 to the COO, who is the responsible management official for the COR assigned to the OIT project.

Recommendation 1 - Implement procedures to ensure that COs and CORs properly review invoices for compliance with the terms of the contract and the scope of work.

Management Comments

The CFO stated that procedures exist under the FAR to ensure the proper review of invoices by the CO and the COR for compliance with the terms of the contract and scope of work. In this instance, the CO properly delegated the responsibility for inspection and review to the COR who has the technical skills and familiarity with the contract terms and scope of work to verify that a contractor performed the work. However, the COR did not compare the billed work to the scope of the contract. Additionally, the OCFO has initiated steps to prevent improper invoice approval from occurring in the future. Specifically, the Acquisition Division hosted two week-long COR training sessions in FY 2012 and will host more training sessions for the CORs in FY 2013. Finally, the OCFO stated it recently placed the revised Acquisition Division SOP into the SBA formal clearance process. This SOP contains procedures for properly reviewing invoices applicable to the CO and the COR. With the SOP in clearance, the OCFO deems it unnecessary to implement additional procedures.

OIG Response

We consider management's comments responsive to the recommendation. We will evaluate the training and the invoice review procedures established in the proposed SOP as part of the audit follow-up process.

The CFO also requested clarification on how the OIG concluded that the action of the CO led to an improperly approved payment. The SOP requires the CO to approve the invoice for payment; however, in this case, the CO should not have approved the invoice because the work was outside the scope of the electrical contract.

Recommendation 2 - Direct the CO, for purchase order SBAHQ-11-M-0018, to review all invoices and make a determination of whether all the work that was billed to the SBA was actually performed. If not, the CO should take appropriate action.

Management Comments

The CFO stated the CO will review the invoices related to SBAHQ-11-M-0018 and determine if all charges were appropriate. If charges are inappropriate, a letter of demand will be issued.

OIG Response

We consider management's comments responsive to the recommendation.

Recommendation 3 - Implement procedures to ensure the COs and CORs maintain supporting documentation of contract actions in the contract files as required by the FAR.

Management Comments

The CFO stated that FAR Subpart 4.8 outlines procedures for establishing and maintaining contract files to sufficiently cover an award's history and that the current COs follow these procedures. Furthermore, the CFO stated that the draft report did not take issue with the Contracting Officer's file documentation. The CFO contends the COR also has the responsibility for maintaining supporting documentation for contract awards in a contract file. Further, the OCFO recently placed the revised Acquisition Division SOP into the SBA formal clearance process. This SOP contains procedures for properly maintaining contract documentation. With the SOP in clearance, the OCFO deems it unnecessary to implement additional procedures.

OIG Response

We consider management's comments responsive to the recommendation. We will evaluate the procedures for maintaining contract files established in the proposed SOP as part of the audit follow-up process.

Recommendation 4 - Perform a review of the purchase order discussed in this report, focusing on the authority of the COR. If appropriate, initiate appropriate administrative action against the COR assigned to the purchase order.

Management Comments

The COO concurred with the recommendation stating that the Office of Management and Administration (OMA) performed a review of the purchase order with a focus on the authority of the COR. In response, the OMA required all of the CORs within the Office of Administrative Services to complete mandatory training to reinforce their responsibilities and to remain current on their COR certifications. Further, the COO discussed the actions taken on this purchase order during the FY 2012 performance review and final rating of the COR. The COO believes these actions are responsive to the findings, and will not take further administrative action against the COR.

In October 2013 [sic], OMA hired a new Facilities Director. Since that time, there have been discussions with the COR and the new Facilities Director on the importance of staying within one's authority as a COR and to ensure good stewardship of the taxpayers' dollars.

OIG Response

We consider management's comments responsive to the recommendation.

Actions Required

Please provide your management decision for each recommendation on the attached SBA Form 1824, *Recommendation Action Sheet*, within 30 days from the date of this report. Your decision should identify the specific action(s) taken or planned for each recommendation and the target dates(s) for completion.

We appreciate the courtesy and cooperation of the Small Business Administration during this audit. If you have any questions concerning this report, please call me at (202) 205-7390 or Riccardo Buglisi, Director, Business Development and Programs Group at (202) 205-7489.

Appendix I: Scope and Methodology

We conducted this audit from January 2012 to January 2013, 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In December 2011, the OIG received a hotline complaint about the procurement methods used to reconfigure the OIT offices. In order to address the hotline complaint, our objective was to determine if the Small Business Administration (SBA) complied with Federal Acquisition Regulations (FAR) and SBA policies for the procurement of services to reconfigure space for the Office of International Trade (OIT). We limited our scope to the work related to the reconfiguration of the OIT and did not verify the invoice information for additional invoices related to the electrical contract.

To achieve our audit objective, we reviewed the FAR and SBA policies related to contracting and credit card purchases. We also conducted interviews and obtained documentation from the staff and management of the OIT, Office of Management and Administration, and the Office of the Chief Financial Officer. We also reviewed Office of Management and Budget Circular A-123.

Use of Computer Processed Data

We obtained and reviewed paper-based, archival data such as credit card statements, vendor invoices and the contract during this audit; however due to the limited scope and objective of the audit, the reliability of this data was deemed acceptable for this review without further validity testing.

Prior Coverage

The SBA OIG issued the following report that focused on improper Government credit card usage:

1. [Report Number 12-16](#), issued August 6, 2012, *Audit of SBA's Procurement Process Used to Reconfigure Space for the Office of International Trade*, reported that SBA personnel with purchase card authority had inappropriately purchased \$34,044.77 in construction transactions. These transactions were over the \$2,000 threshold established by the Federal Acquisition Regulations for construction purchases at the Washington, DC area offices.

Appendix II: COR Duties and Responsibilities

The COR appointment letter for the electrical contract states the COR shall:

- Ensure that changes in the work or services, and resulting effects on delivery schedule, are formally effected by written modification issued by the CO before the contractor proceeds with the changes;
- Refer to the CO those matters, other than purely technical problems, which may affect the contract;
- Notify the CO promptly of any violation of or deviation from the technical requirement of the contract; and
- Complete their actions in the contract-working file.

Additionally, the COR appointment letter states the COR shall not:

- Modify the stated terms of the contract;
- Issue instructions (oral or written) to a contractor to start or stop work;
- Approve items of cost not specifically authorized by the contract; or
- Direct changes (oral or written) or provide any guidance in the work to the contractor, which contradict the contract's scope and terms and conditions which may be misinterpreted as properly changing the contractual terms and conditions, but actually jeopardize the rights of, or the benefits to the government, the contract, or both.

Appendix III: Chief Financial Officer Comments



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

TO: John K. Needham
Assistant Inspector General for Auditing, Office of Inspector General

FROM: Jonathan Carver
Chief Financial Officer, Office of the Chief Financial Officer

DATE: February 15, 2013

SUBJECT: The SBA Used Inappropriate Contracting Practices to Reconfigure Space for the Office of International Trade

OCFO General Comments:

OCFO appreciates the opportunity to review the OIG Draft Report, “The SBA Used Inappropriate Contracting Practices to Reconfigure Space for the Office of International Trade.” The OCFO requests that the OIG fully address this finding with the appropriate staff in the Office of International Trade and the Office of Management and Administration involved in this action.

Since this finding occurred, the Acquisition Division has conducted several internal trainings on the role of program offices in the procurement process, including topics such as acquisition planning and proper contract management. In addition to the internal training, the Acquisition Division hosted two COR week-long training sessions in FY12 and will host several training sessions for CORs in FY13. OCFO anticipates that by equipping the program office personnel with training, the instances of improper contract management and poor acquisition planning should decrease in the future FYs.

OCFO Specific Comments and Edits:

- 1) There is a spelling error on page 2. The second sentence of the first paragraph-“identity” should say “identify.”
- 2) On page 3, 2 of the 3 findings listed in the first paragraph involve the COR’s actions. OCFO recognizes that the acquisition process involves the requesting program office and

the Acquisition Division. Therefore, OCFO requests that the OIG include the OIT management and the responsible COR on the discussion of this finding and the recommendations that follow.

- 3) On page 5, the OIG discusses the actions of the CO on this award stating that the CO improperly approved payment to the contractor. The OCFO would like to see specifics on how the OIG concluded that the actions of the CO lead to an improperly approved payment.
- 4) **Recommendation 1 on page 6-Implement procedures to insure that COs and CORs properly review invoices for compliance with the terms of the contract and the scope of work.**

Procedures exist under the FAR to insure that COs and CORs properly review invoices for compliance with the terms of the contract and scope of work. In this instance, the CO properly delegated the responsibility for inspection and review under this award to the COR. The COR delegation permits the COR, who has the requisite technical skills and familiarity with the contract terms and scope work, to verify that a contractor performed work under the terms and conditions of an award. As documented in the OIG's draft report, the COR failed to compare the billed work to the scope of the contract. Additionally, the OCFO has initiated certain steps to ensure that the improper invoice approval does not occur in the future. For instance, the Acquisition Division hosted two week-long COR training sessions in FY12 and will host more training sessions for CORs in FY13. In addition to providing the program offices with COR training, the OCFO also recently placed the revised Acquisition Division SOP into formal clearance at the SBA. This SOP contains procedures on properly reviewing invoices for CORs and COs, pursuant to FAR requirements. Furthermore, with this SOP in clearance, the OCFO deems it unnecessary to implement additional procedures.

- 5) **Recommendation 2 on page 6: Direct the CO, for purchase order SBAHQ-M-0018, to review all invoices and make a determination of whether all the work that was billed to the SBA was actually performed. If not the CO should take appropriate action.**

Technical Comment: The referenced award is missing the two digit designation for the fiscal year of the award.

General Comment: The CO will review the invoices and determine if all charges against the order were appropriate. If charges are determined to be inappropriate a letter of demand will be issued.

- 6) **Recommendation 3 on page 6: Implement procedures to ensure the COs and CORs maintain supporting documentation of contract actions in the contract file as required by the FAR.**

FAR Subpart 4.8 outlines procedures for establishing and maintaining contract files to sufficiently cover an award's history. Current COs follow these procedures.

This draft report currently does not indicate an issue with CO file documentation. The issues reside with the actions or omissions of the COR. The COR also has the responsibility of maintaining supporting documentation for contract awards in a contract file.

The OCFO also recently placed the revised Acquisition Division SOP into formal clearance at the SBA. This SOP contains procedures on establishing and maintaining contract files. With this SOP in clearance, the OCFO deems it unnecessary to implement additional procedures.

Appendix IV: Chief Operating Officer Comments



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

DATE: February 14, 2013

TO: John K. Needham
Assistant Inspector General for Auditing
Office of Inspector General

FROM: Paul Christy
Chief Operating Officer

SUBJECT: Project No. 12003A: *The SBA Used Inappropriate Contracting Practices to Reconfigure Space for the Office of International Trade*, January 16, 2013

Thank you for your audit report of the subject project. The Office of Management and Administration (M&A) concurs with your finding that M&A's Contracting Officer Representative (COR) inappropriately authorized the use of an existing contract to complete the OIT configuration, and in doing so exceeded his authority.

M&A has reviewed the purchase order with a focus on the authority of the COR. We have also taken actions that we feel will strengthen M&A's internal controls around the use of the credit card for not only construction, but other types of purchases, as well as the authority of our CORs. M&A required current delegation letters for the purchase cardholders within the COR's organization Office of Administrative Services (OAS). Additionally, each was required to complete mandatory training to reinforce their responsibilities and remain current on their COR certifications. We also implemented an additional internal control which requires all OAS purchase card requests at or above the \$2000 threshold include an appropriate approval statement from the COR for initial/approval by the Deputy Associate Administrator, M&A, attesting to the use of the procurement. Lastly, we took this incident very seriously and discussed it during the FY12 performance review and final rating for the COR. We believe that these actions are responsive to the findings, and will not take further administrative action against the COR. In October 2013, we hired a new Facilities Director who will be directly responsible for construction and facilities-related projects. Since that time, we have engaged in discussions with both the COR and the new Facilities Director on the importance of the appropriate use of the purchase card for construction needs and on staying within one's authorities as not only CORs, but also as good stewards of our taxpayers' dollars.

Thank you again for the opportunity to respond. If you have any additional questions or concerns, please contact M&A's Deputy Associate Administrator, Donna J. Butler, at 202-205-6610.