



OFFICE OF INSPECTOR GENERAL

Evaluation Report

2013-IE-C-004

CFPB Contract Solicitation and Selection  
Processes Facilitate FAR Compliance, but  
Opportunities Exist to Strengthen  
Internal Controls

March 28, 2013

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

## Report Contributors

Anne Keenaghan, Project Leader and OIG Manager  
Saurav Prasad, Senior Auditor  
Eric Barndt, Auditor  
Timothy Rogers, Senior OIG Manager

## Abbreviations

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Acquisition planning policy	<i>Policy for Acquisition Planning</i>
ARC	Administrative Resource Center (Bureau of the Public Debt)
CFPB	Consumer Financial Protection Bureau
FAR	Federal Acquisition Regulation
GAO	U.S. Government Accountability Office
OIG	Office of Inspector General
Review policy	<i>Procurement Review Threshold Policy</i>

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## ***Executive Summary:***

# **CFPB Contract Solicitation and Selection Processes Facilitate FAR Compliance, but Opportunities Exist to Strengthen Internal Controls**

2013-IE-C-004

March 28, 2013

### **Purpose**

The Office of Inspector General conducted an evaluation of certain Consumer Financial Protection Bureau (CFPB) procurement activities to assess the internal controls of the CFPB's Office of Procurement. Our objective was to determine whether the CFPB established contract solicitation and selection processes that facilitated compliance with applicable rules established by the Federal Acquisition Regulation (FAR).

### **Background**

The CFPB's Office of Procurement, which enters into contracts for goods and services on behalf of the CFPB, started contracting activities in October 2010. An Assistant Director for Procurement, who started at the CFPB in December 2010, leads the agency's procurement activities. The CFPB initially used the Department of the Treasury's Administrative Resource Center to award contracts and plans to continue using these services for routine procurements. The CFPB follows the FAR.

### **Findings**

The CFPB established internal processes and procedures to facilitate FAR compliance related to contract solicitation and selection activities; however, opportunities exist to strengthen internal controls. We found that the CFPB's processes and practices were compliant with particular FAR requirements, such as performing acquisition planning and market research, providing opportunities for companies to compete for CFPB contracts, and conducting documented evaluations of contractor selections. Nonetheless, at the time of our review, we could not determine from CFPB documentation that was provided to us whether the CFPB's competition advocate was fulfilling each of the responsibilities required by the FAR. Further, at the time of our review we found that the CFPB had not yet finalized certain CFPB policies and procedures that facilitate FAR compliance in solicitation and selection activities.

We also found that the CFPB had expedited contracts in some instances, based on urgent requests from program officials; however, we could not determine the reason for the urgency in each case we reviewed. Accordingly, opportunities exist to strengthen contract file documentation when the CFPB expedites the procurement process in response to urgent requests.

After we communicated our initial observations to the CFPB, the Office of Procurement issued a final revised *Procurement Review Threshold Policy*, dated October 23, 2012, and a finalized *Policy for Acquisition Planning*, dated October 25, 2012.

### **Recommendations**

We recommend that the Assistant Director for Procurement develop an internal policy describing how the CFPB implements the FAR requirements pertaining to the agency's competition advocate; finalize, disseminate, and implement its Small Business Review Form to facilitate FAR compliance related to small business participation; and enhance CFPB procedures related to the documentation of urgent procurement requests. The Assistant Director for Procurement concurred with our recommendations.

Access the full report: [http://www.federalreserve.gov/oig/files/CFPB\\_Contract\\_Solicitation\\_Selection\\_full\\_Mar2013.pdf](http://www.federalreserve.gov/oig/files/CFPB_Contract_Solicitation_Selection_full_Mar2013.pdf)

For more information, contact the OIG at 202-973-5000 or visit <http://www.consumerfinance.gov/oig>.

## Summary of Recommendations, Report No. 2013-IE-C-004

Rec. no.	Report page no.	Recommendation	Responsible office
1	7	Develop an internal policy describing how the CFPB implements the Federal Acquisition Regulation requirements pertaining to the agency's competition advocate	Office of Procurement
2	9	Finalize, disseminate, and implement the Small Business Review Form to facilitate Federal Acquisition Regulation compliance related to small business participation	Office of Procurement
3	12	Enhance CFPB procedures to require documentation from the program official justifying urgent procurement requests	Office of Procurement

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OFFICE OF INSPECTOR GENERAL  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
CONSUMER FINANCIAL PROTECTION BUREAU

March 28, 2013

**MEMORANDUM**

**TO:** David Gagan  
Assistant Director for Procurement

**FROM:** Timothy Rogers   
Co-acting Associate Inspector General for Inspections and Evaluations and  
Senior OIG Manager

**SUBJECT:** OIG Report No. 2013-IE-C-004: *CFPB Contract Solicitation and Selection Processes Facilitate FAR Compliance, but Opportunities Exist to Strengthen Internal Controls*

Attached is a copy of an evaluation report that the Office of Inspector General (OIG) recently completed regarding certain contract solicitation and selection processes of the Consumer Financial Protection Bureau (CFPB). The OIG conducted this evaluation to identify opportunities to strengthen the internal controls of the CFPB's Office of Procurement.

We provided you with a copy of our draft report for review and comment. In your response, you stated that you concurred with our recommendations, and you outlined actions that you have taken or that you plan to take to satisfy our recommendations. We have included your response as appendix B to our report.

We appreciate the cooperation that we received from CFPB staff during our evaluation. This report will be added to our public website and will be summarized in our next semiannual report to Congress. Please contact me if you would like to discuss this report or any related issues.

cc: Victor Prince  
Joshua Galicki



# Contents

<b>Introduction</b> .....	1
Objective .....	1
Background .....	1
<i>The CFPB's Office of Procurement</i> .....	1
<i>The CFPB's Contract Solicitation Process</i> .....	2
<i>The CFPB's Contract Selection Process</i> .....	3
<b>Finding 1: The CFPB's Contract Solicitation and Selection Processes Facilitate FAR Compliance, but Opportunities Exist to Strengthen Internal Controls</b> .....	4
The CFPB Implemented Internal Controls That Facilitate FAR Compliance .....	4
The CFPB Designated a Competition Advocate as Required by the FAR .....	6
It Is Unclear Whether the Competition Advocate's Activities Were Reported .....	6
Recommendation .....	7
Management's Response .....	7
OIG Comment .....	7
<b>Finding 2: The CFPB Had Not Yet Finalized Certain Policies That Facilitate FAR Compliance</b> .....	8
The Acquisition Planning Policy Remained in Draft State .....	8
The CFPB Revised Its Review Policy to Strengthen the Documentation of Legal Review .....	9
The Small Business Review Form Remained in Draft State .....	9
Recommendation .....	9
Management's Response .....	10
OIG Comment .....	10
<b>Finding 3: Opportunities Exist to Strengthen Contract File Documentation When Procurement Processes are Expedited for Urgent Requests</b> .....	11
The CFPB Awarded Contracts within Compressed Time Frames .....	11
Recommendation .....	12
Management's Response .....	12
OIG Comment .....	12
<b>Other Matter for Management's Consideration</b> .....	13
<b>Appendix A: Scope and Methodology</b> .....	14
<b>Appendix B: Management's Comments</b> .....	15





# Introduction

## Objective

The Office of Inspector General (OIG) conducted an evaluation of certain Consumer Financial Protection Bureau (CFPB) procurement activities to assess the internal controls of the CFPB's Office of Procurement.<sup>1</sup> Our objective was to determine whether the CFPB established contract solicitation and selection processes that facilitated compliance with applicable rules established by the Federal Acquisition Regulation (FAR), which is the primary set of regulations governing federal agencies' procurement of goods and services.

To answer our objective, we determined the extent to which the CFPB's processes and procedures facilitated compliance with certain FAR rules pertaining to contract solicitation and selection, such as acquisition planning, competition, and contractor evaluation. In addition, to assess whether the CFPB followed its internal controls and complied with specified FAR requirements, we reviewed documentation from a sample of CFPB contracts awarded between October 1, 2010, and December 31, 2011. For additional information regarding our scope and methodology, see appendix A.

## Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the CFPB in July 2010 to "regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws."<sup>2</sup> The agency initially operated under authorities granted to the Secretary of the Treasury until a CFPB Director was appointed in January 2012. Prior to hiring initial procurement staff in December 2010, the CFPB solely used the Department of the Treasury's Bureau of Public Debt's Administrative Resource Center (ARC) to award contracts on the CFPB's behalf. The CFPB has continued to develop an Office of Procurement; however, the agency plans to continue using the ARC for routine procurements pursuant to an interagency agreement. The CFPB has currently decided to follow the FAR in its entirety on all procurements.

### ***The CFPB's Office of Procurement***

The CFPB's Office of Procurement is responsible for establishing processes to provide goods and services to program officials in CFPB divisions. During our period of review, the CFPB continued to recruit procurement staff. In December 2010, the CFPB hired the Assistant

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1. As noted in our publicly available work plan, the OIG plans to conduct a follow-up evaluation that will focus on the CFPB's contract management processes.
  2. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 1011(a), 124 Stat. 1376, 1964 (2010) (codified at 12 U.S.C. § 5491(a)).

Director for Procurement and the Deputy Assistant Director for Procurement, who represented the CFPB's procurement team until the agency hired a procurement analyst in June 2011 and two contracting officers in July 2011. As of January 2013, the CFPB's Office of Procurement included the following 10 members:<sup>3</sup>

- 1 Assistant Director for Procurement
- 1 Deputy Assistant Director for Procurement
- 4 Contracting Officers
- 2 Contract Specialists
- 1 Procurement Analyst
- 1 Contract Program Analyst

Through September 2012, the CFPB had awarded \$406 million in contracts, of which approximately \$120 million had been obligated.<sup>4</sup>

### ***The CFPB's Contract Solicitation Process***

The CFPB's contract solicitation process begins when a program official identifies a need for goods or services to be obtained through the procurement function. The program official coordinates with the Office of Procurement to develop an acquisition package, which typically includes the following elements that align with FAR requirements:

- a description of the specific goods and services needed
- the results of market research to identify vendors
- a cost estimate and documented approval for funding
- a description of how competition will be obtained throughout the course of the acquisition
- a source selection plan that establishes the guidelines for the evaluation of proposals received from contractors

The contracting officer uses information in the acquisition package to prepare a solicitation, which is the form of communication that, among other things, invites vendors to submit proposals responding to the CFPB's request for goods or services and identifies the criteria the CFPB will use to evaluate each vendor's response.

The FAR prescribes policies and procedures to provide competition in the acquisition process and permits federal agencies to solicit potential contractors in several ways. For example, the CFPB may publicly post a solicitation on which any company may submit a proposal, or the CFPB may solicit proposals from a list of approved government vendors or contract holders.<sup>5</sup>

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3. Legal counsel from the CFPB's Legal Division also assists Office of Procurement staff.
  4. The \$406 million represents the total potential ceiling amounts for CFPB-awarded contracts but does not include agreements with no specified ceilings under which the CFPB may award task orders. The \$120 million represents contract obligations resulting from CFPB and ARC staff making awards on behalf of the agency and does not include obligations for interagency agreements or memorandums of understanding. In addition to CFPB- and ARC-awarded contracts, the agency inherited building contracts totaling \$38 million from other federal agencies.
  5. The General Services Administration has established long-term government-wide contracts (with set prices and terms for supplies and services) from which government agencies may order. Agencies also may establish multiple-award contracts when several companies can perform a general type of work.

A vendor responds to the solicitation by submitting a proposal that the CFPB will evaluate during the contract selection process.

### ***The CFPB's Contract Selection Process***

After potential contractors respond to a solicitation, the CFPB conducts an evaluation to determine the proposal that is either the best value to the government based on price and nonprice factors, or the lowest priced that technically meets the contract requirements. In addition, the CFPB's selection process includes steps to determine whether potential contractors are responsible, as required by the FAR. The contracting officer typically serves as the selecting official who identifies the winning contractor. In some cases, the contracting officer receives input from a selection panel comprising multiple stakeholders who evaluate certain components of the proposals.

During an evaluation to identify the proposal that is the best value, the CFPB considers both price and nonprice factors as permitted by the FAR. Since price can be a significant factor in determining the winning proposal, nonprice factors are typically evaluated separately. Nonprice factors include a contractor's

- technical approach, which is the proposed method to provide the required good or service identified in the solicitation
- key personnel who will accomplish the needed work
- past performance or previous experience in conducting work similar to what is required
- plan to include small businesses to complete some of the required work

Based on the results of the evaluation, the contracting officer selects an offeror and awards the contract.

# Finding 1: The CFPB's Contract Solicitation and Selection Processes Facilitate FAR Compliance, but Opportunities Exist to Strengthen Internal Controls

The CFPB established internal processes and procedures to facilitate FAR compliance related to contract solicitation and selection activities, such as performing acquisition planning and market research, providing opportunities for companies to compete for CFPB contracts, and conducting evaluations of contractors. We also found that the CFPB designated a competition advocate, a role required by the FAR to promote competition. Nonetheless, our review of a sample of CFPB contracts identified opportunities to strengthen internal controls. At the time of our review, we could not determine based on documentation provided to us whether the CFPB's competition advocate was fulfilling each of the responsibilities required by the FAR. We believe that developing a policy describing the roles and responsibilities of the competition advocate will provide transparency regarding how the individual executing that role is implementing FAR requirements related to competition.

## **The CFPB Implemented Internal Controls That Facilitate FAR Compliance**

To facilitate FAR compliance in its contract solicitation and selection activities, the CFPB has implemented several internal controls, including those listed in table 1.

**Table 1: Examples of CFPB Controls to Facilitate FAR Compliance**

FAR citation	FAR requirement	Corresponding CFPB controls
FAR 7.102(a) (2012)	<p>Market Research and Acquisition Planning</p> <p>Agencies shall perform acquisition planning and conduct market research in order to promote and provide for . . . full and open competition or competition to the maximum extent practicable, and the selection of appropriate contract type.</p>	<ul style="list-style-type: none"> <li>• <i>Acquisition Plan Contents: Acquisition Plan Format</i>—An acquisition plan template that includes sections for market research, competition considerations, and rationale for contract type</li> <li>• <i>Procurement Policy: Market Research</i>—A policy that communicates the importance of market research to program officials</li> </ul>
FAR 7.103(j) (2012)	<p>Approval of Contract Documents</p> <p>The agency shall prescribe procedures for (1) reviewing and approving acquisition plans and revisions to these plans to ensure compliance with FAR requirements, and (2) for certain contract types, ensuring that the plan is approved and signed at least one level above the contracting officer.</p>	<ul style="list-style-type: none"> <li>• <i>Procurement Review Threshold Policy</i>—A review policy that communicates various thresholds at which certain contracting actions must receive senior executive and legal review</li> </ul>
FAR 4.803(a) (2012)	<p>Evidence of Availability of Funds</p> <p>Contract files typically contain documentation evidencing the availability of funds.</p>	<ul style="list-style-type: none"> <li>• <i>CFPB Control Cover Sheet</i>—A control sheet that documents senior-level approvals of a potential contracting action, depending on the dollar amount of the contract</li> <li>• <i>Investment Review Board</i>—A board that determines whether the agency has available funds to support a pending contracting action above \$500,000</li> </ul>
FAR 4.801(a)-(b) (2012)	<p>Contract File Documentation</p> <p>Contracting offices shall establish files that contain the records of all contractual actions and are sufficient to constitute a complete history of the transaction.</p>	<ul style="list-style-type: none"> <li>• <i>Policy for the Office of Procurement Contract Files</i>—A policy for establishing, maintaining, and disposing of CFPB contract files</li> <li>• <i>File Checklist</i>—A checklist that identifies documentation required for the contract file and cites applicable FAR sections requiring certain documents</li> </ul>

Source: OIG analysis of CFPB documents.

We also found that at the time of our review, the CFPB was using several draft document templates that further facilitated FAR compliance. For example, the templates assisted program officials in documenting (1) a plan to acquire goods and services, (2) the performance goals and standards to be achieved by potential contractors, and (3) the reasoning and justification for an acquisition that limits competition, among other requirements.

In practice, for each contract we reviewed, we found that the CFPB

- conducted and documented acquisition planning
- specified the required results from the contract
- prepared a government cost estimate
- obtained and documented necessary funding approvals
- identified and implemented a plan to evaluate proposals to determine which contractor represented the best value to the government
- evaluated contractor qualifications
- recorded its selection decision

## The CFPB Designated a Competition Advocate as Required by the FAR

The CFPB designated the Deputy Assistant Director for Procurement as the agency's competition advocate. FAR Part 6 requires agencies to establish a competition advocate to promote competition, but does not permit the agency's senior procurement executive to perform the role. Although FAR Part 6 otherwise provides discretion regarding who should be appointed as the advocate and how this person should implement the roles and responsibilities outlined in the FAR,<sup>6</sup> a U.S. Government Accountability Office (GAO) report states that a senior-level competition advocate "can be more effective in the role and, by emphasizing the importance of competition to program office staff as well as contracting officers, has the potential to affect competition results."<sup>7</sup> Consistent with the best practice identified in the GAO report, we found that the CFPB designated its second-highest procurement executive, the Deputy Assistant Director for Procurement, as the agency's competition advocate.

Although the Deputy Assistant Director for Procurement also initially served as the contracting officer for two early CFPB contracting actions, the FAR did not require the competition advocate's approval of these actions. In addition, the FAR does not exclude contracting officers from performing the competition advocate role, and according to CFPB officials, the Deputy Assistant Director for Procurement no longer has contracting officer responsibilities since the CFPB hired contracting officers in July 2011.

## It Is Unclear Whether the Competition Advocate's Activities Were Reported

Although the CFPB designated a competition advocate, we could not determine the extent to which the competition advocate implemented the FAR requirements to (1) prepare and submit an annual report to the agency senior procurement executive describing, among other things, the advocate's activities and new initiatives to increase competition and (2) recommend goals, plans, and a system of organizational accountability for increasing competition. In response to our request for the competition advocate's reports, the CFPB provided its fiscal year 2011 procurement report and referenced its internal monthly procurement reports as another source that provided CFPB competition data. Although these documents reported the CFPB's competition statistics, new outreach strategies to bolster competition, and potential improvement areas regarding competition, they do not mention the competition advocate. Therefore, we could not determine his specific activities, new initiatives, or recommendations. In addition, the fiscal year 2011 procurement report does not identify who authored it and to whom it was submitted.

According to a CFPB official, the procurement team did not prepare a separate policy outlining the CFPB competition advocate's responsibilities because roles and responsibilities are described in the FAR. We believe that the CFPB should document how it is implementing

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6. FAR 6.501 (2012).

7. GAO, Federal Contracting: Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received, GAO-10-833, July 2010.

the FAR requirements pertaining to the competition advocate to provide greater transparency and to facilitate FAR compliance.

## **Recommendation**

We recommend that the Assistant Director for Procurement

1. Develop an internal policy describing how the CFPB implements the FAR requirements pertaining to the agency's competition advocate

## **Management's Response**

The Assistant Director for Procurement concurred with recommendation 1. In his response, the Assistant Director stated that the Office of Procurement takes competition very seriously, and that since the audit was conducted, the office "made progress toward completing a competition policy that will address the role of the competition advocate and the duties required in accordance with the FAR." The Assistant Director indicated that "competition reporting and activities will be explicit and aligned with the role of the competition advocate as defined by the FAR," and that the "Deputy Assistant Director for Procurement shall continue in the advocate role with support from my analyst team and staff assistance in order to carry out required duties," consistent with what we noted in our report as a best practice.

## **OIG Comment**

In our opinion, the actions described by the Assistant Director are appropriate for the recommendation, and we plan to follow up on the Office of Procurement's actions to ensure that the recommendation is fully addressed.

## Finding 2: The CFPB Had Not Yet Finalized Certain Policies That Facilitate FAR Compliance

Certain CFPB policies and procedures that facilitate FAR compliance in solicitation and selection activities were in draft form at the time of our review. GAO's *Standards for Internal Control in the Federal Government* states that policies and procedures enforce management's directives. We found that although the Office of Procurement had been conducting procurement activities since October 2010, the CFPB's *Policy for Acquisition Planning* (acquisition planning policy) and Small Business Review Form had not yet been finalized at the time of our review. In addition, the CFPB was in the process of making revisions to the finalized *Procurement Review Threshold Policy* (review policy). After we communicated our initial observations to the CFPB, the Office of Procurement issued a final revised review policy, dated October 23, 2012, and a finalized acquisition planning policy, dated October 25, 2012. The Small Business Review Form, which could facilitate compliance regarding small business participation, remained a draft. We believe that finalizing and disseminating the Small Business Review Form will increase the likelihood that the CFPB will be compliant with FAR requirements and management's directives regarding small business competition.

### The Acquisition Planning Policy Remained in Draft State

We found that the acquisition planning policy, which includes controls that facilitate FAR compliance for solicitation and selection activities, was a draft at the time of our review. According to the policy, the CFPB considers acquisition planning to be the most critical component of the procurement process. The draft policy included several key document templates, such as an acquisition plan and a source selection plan, to assist program officials in completing the acquisition package. The draft policy included the following controls (also in draft form):

- an acquisition package checklist, which guides acquisition planning and facilitates the completion of each of the elements of the acquisition plan
- a template for the acquisition plan, which includes documenting market research, competition considerations, and acquisition milestones
- guidance regarding the standard amount of time and resources the CFPB would need to allocate to effectively complete an acquisition
- sample Independent Government Cost Estimates, which are used to compare proposed prices from offerors
- a template for a source selection plan, which establishes the guidelines for the evaluation of proposals received from contractors
- a template for the control sheet that documents funding approval
- a template for a performance work statement, which identifies such things as objective, scope, and period of performance of the proposed contracting action

Although we found that CFPB officials had been using a few of these draft control documents in practice, several of the templates continued to evolve during our review period. The CFPB finalized its acquisition planning policy on October 25, 2012.



## The CFPB Revised Its Review Policy to Strengthen the Documentation of Legal Review

For the contracts we reviewed, we found that the CFPB documented its legal reviews via e-mails between the legal and procurement staffs and, in some cases, the program staff. The FAR states that documentation related to evidence of legal review is “normally contained” in contract files,<sup>8</sup> and the CFPB’s review policy requires its Legal Division to review certain documents related to potential contracting actions at or above \$500,000. From our review of the above mentioned e-mails, we had difficulty determining whether the CFPB’s Legal Division reviewed certain documents for the contracts we sampled. In addition, we determined through our benchmarking research that another federal agency documents legal review using a cover sheet requiring the legal staff’s signature. In response to our initial observations, the CFPB revised its review policy to formally document legal approvals using a routing and review slip instead of e-mails.

## The Small Business Review Form Remained in Draft State

FAR Part 19 requires agencies to consider small businesses for any acquisition over \$150,000, and for acquisitions below that amount, the agency generally must automatically set aside the contract for small business competition.<sup>9</sup> In addition, agencies are required to coordinate certain contracting activities with a designated small business specialist. For contracts that required small business consideration, we found that (1) the CFPB coordinated with the Bureau of Public Debt’s small business specialist and (2) the contracting officers documented small business considerations for each of the contracts we reviewed, and in some cases, the CFPB specifically awarded contracts to small businesses when certain FAR rules applied.

Nonetheless, to further facilitate compliance, the CFPB has developed a Small Business Review Form that includes controls to help ensure that the small business specialist is involved, when appropriate. Although the CFPB’s small business specialist told us in April 2012 that the form would be finalized and rolled out in a month, the form was still in draft as of January 22, 2013.

## Recommendation

We recommend that the Assistant Director for Procurement

2. Finalize, disseminate, and implement the Small Business Review Form to facilitate FAR compliance related to small business participation

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8. FAR 4.803(a)(24) (2012).

9. FAR 19.203(b), (c) (2012).

## **Management's Response**

The Assistant Director for Procurement concurred with recommendation 2. In his response, the Assistant Director noted that the Office of Procurement considers “small business participation in CFPB procurements as a planning priority,” and since the audit was conducted, the office has implemented a small business policy as well as a supplemental small business review form. The Assistant Director highlighted that the new policy “standardizes the usage of the review form to ensure coordination with the small business specialist and consideration of small businesses during acquisition planning.”

## **OIG Comment**

In our opinion, the actions described by the Assistant Director are appropriate for the recommendation, and we plan to follow up on the Office of Procurement's actions to ensure that the recommendation is fully addressed.

# Finding 3: Opportunities Exist to Strengthen Contract File Documentation When Procurement Processes are Expedited for Urgent Requests

The CFPB expedited competitively awarded contracts in some instances based on urgent requests from program officials. To satisfy such requests, the CFPB shortened certain aspects of the procurement process. An internal CFPB training document, as well as the FAR, states that issuing requirements on an urgent basis generally restricts competition. Although the FAR permits streamlined procedures for procuring certain goods and services,<sup>10</sup> we believe that particular elements of the contracting process, such as acquisition planning and market research, should precede other milestones, including proposal solicitation. Although we understand that the procurement team must expedite the contracting process in some cases (and that the FAR permits limiting competition when certain urgent and compelling needs exist), we believe that the CFPB should strengthen contract file documentation by developing a policy that requires program officials to document appropriate justification for urgent procurement requests, regardless of whether full or limited competition is proposed.

## The CFPB Awarded Contracts within Compressed Time Frames

During our sample review, we found instances in which the CFPB competitively awarded contracts within compressed time frames that were shorter than those prescribed in the CFPB's internal lead-time guidance but still in compliance with the FAR.<sup>11</sup> According to CFPB officials, the procurement team expedited these contract awards in response to urgent requests from CFPB program officials and as a result of procurement staffing challenges. We could not determine the reason for the urgency in each case we reviewed.

For one contract, which had a lead time of four days,<sup>12</sup> we found that (1) the acquisition plan and control sheet were approved after the solicitation was released and (2) the legal review, proposal evaluation, and contract selection were completed on the same day. We did find documentation of the urgency of this particular contract in the form of a memorandum signed on the date of the contract award. A procurement official told us that staff resources were constrained at the time and that program officials expected a quick turnaround for their request. In addition, the official stated that this contract was one of the first actions that the CFPB processed on its own.

In another contract identified as urgent, a program official communicated concern to the contracting officer that the CFPB's nine-day solicitation window did not provide appropriate time for offerors to reply to a solicitation. In this case, the CFPB contracting officer responded that as much time as possible should be provided to the CFPB to prepare the award documents instead of providing additional time for vendors to respond to the solicitation. In

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10. FAR 12.602, 7.103(m) (2012).

11. As part of the acquisition planning policy, the CFPB defines the number of days that the procurement team ideally would need to allocate sufficient time and resources for each type of acquisition.

12. The lead time is the window between the completion of an acquisition package and the award.

this case, the contracting officer did extend the solicitation window by one day. Unlike the example provided above, it was unclear why this procurement was considered urgent.

Internal CFPB guidance, as well as the FAR, advise that personnel should avoid issuing requirements on an urgent basis or with unrealistic delivery schedules since it generally restricts competition and increases prices. Moreover, in our benchmarking research, another federal agency's procurement official commented that procurement staff should not neglect aspects of the contracting process when time crunches result from urgent requests.

Accordingly, although we understand that the CFPB may encounter circumstances as a relatively new agency that require flexibility to expedite the procurement process, we believe that documenting the rationale for urgent procurement requests will provide additional transparency to stakeholders who may review the CFPB's procurement decisions.

## Recommendation

We recommend that the Assistant Director for Procurement

3. Enhance CFPB procedures to require documentation from the program official justifying urgent procurement requests

## Management's Response

The Assistant Director for Procurement concurred with recommendation 3. In his response, the Assistant Director highlighted that our review period included the CFPB's early implementation stages when expedited procurement processes were necessary. The Assistant Director noted that competition was not limited for expedited actions and that the office has made progress in reducing the number of expedited procurements since our audit. The Assistant Director also noted that "as the Bureau matures and our staffing plan is fully realized, our focus has been applied to enterprise-wide procurement planning across the Bureau." Further, he stated that even though the office has ensured compliance with the FAR, "our pipeline infrastructure puts us in even a better position to plan and solicit for procurement actions without the use of expedited timelines." The Assistant Director plans to develop an Expedited Need request form, the use of which will require justification for expedited procurement processes and approval by the Office of Procurement.

## OIG Comment

In our opinion, the actions described by the Assistant Director are appropriate for the recommendation, and we plan to follow up on the Office of Procurement's actions to ensure that the recommendation is fully addressed.

## Other Matter for Management's Consideration

CFPB program officials may benefit from a more structured and detailed training program, especially when procurement team members have limited time to advise program officials throughout the procurement process. The Office of Procurement has provided (1) roundtable discussions with contracting officer representatives to discuss various topics, including acquisition planning, market research, and source selection processes; (2) informal training to program officials through “lunch-and-learn” sessions that provided information on, for example, the organization of the Office of Procurement and the procurement process; (3) advisory support and templates to facilitate procurement activities; and (4) monthly reports to staff with information such as contract awards, procurement forecasts, procurement metrics, and contractor performance. Nonetheless, completing the procurement templates, according to a program official, was challenging at times since contracting was not an area of expertise for the official. In addition, for the program officials who worked on some of the contracts we reviewed, those procurements had been their first experience in federal contracting. Thus, a more formal procurement training program may further facilitate the program officials' involvement in the contracting process.

# Appendix A

## Scope and Methodology

To accomplish our objective, we reviewed applicable sections of the FAR and identified certain criteria from which to assess the CFPB's contract solicitation and selection processes and practices. This review would not have necessarily disclosed all instances of noncompliance or internal control weaknesses in areas not covered by our evaluation. Specifically, we assessed (1) whether the CFPB developed overall processes and procedures that facilitated compliance with particular FAR requirements and (2) the extent to which a sample of CFPB contracts complied with certain FAR guidance for performing acquisition planning, promoting competition, evaluating proposals, and reviewing contractor qualifications.

We also reviewed other relevant guidance, including GAO's *Internal Control and Management Evaluation Tool*, GAO's *Standards for Internal Control in the Federal Government*, and Office of Management and Budget guidance. In addition, we reviewed various CFPB procurement documents, including policies and procedures, organizational charts, position descriptions, training materials, and performance reports.

We interviewed CFPB procurement and program officials and staff, and we consulted another federal agency's procurement team to understand practices related to contract solicitation and selection.

We selected a sample of CFPB contracts awarded from October 1, 2010, through December 31, 2011, targeting contracts with large dollar amounts or those with a potential for large dollar amounts. We judgmentally selected a sample of 10 contracting actions that were above \$150,000 or that did not have a specified ceiling amount. These 10 contracting actions included both task orders placed under established contracts or with government sources, as well as blanket purchase agreements.<sup>13</sup>

We conducted our fieldwork from December 2011 through September 2012 in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

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13. A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for supplies or services.

# Appendix B

## Management's Comments



1700 G ST NW, Washington DC 20552

March 18, 2013

Mr. Mark Bialek  
Inspector General  
Board of Governors of the Federal Reserve System and  
Consumer Financial Protection Bureau  
20<sup>th</sup> and C Streets, NW  
Washington, DC 20551

Dear Mr. Bialek,

Thank you for the opportunity to review and comment on the Office of Inspector General's draft report entitled *CFPB Contract Solicitation and Selection Processes Facilitate FAR Compliance, but Opportunities Exist to Strengthen Internal Controls*. We have reviewed the report and concur with the recommendations.

The Consumer Financial Protection Bureau's (CFPB or Bureau) Office of Procurement was created to establish processes and execute contract actions to provide goods and services in support of the Bureau's mission. We are pleased that you agree that our office has established internal processes and procedures for contract solicitation and selection activities that are aligned with the Federal Acquisition Regulation (FAR). These include acquisition planning, market research, providing opportunities for contractors to compete for CFPB contracts, and conducting evaluations of contractor proposals. We also appreciate your recognition of our efforts in designating an advocate to promote competition for CFPB contracts as well as the implementation of several specific internal controls as listed in Table 1 of your report.

The contracts sampled for this report were awarded between October 1, 2010 and December 31, 2011. During this period, the Office of Procurement was developing while it was also responsible for the timely execution of essential procurement needs required for startup and implementation. In addition to a deputy, we were able to bring aboard a procurement analyst in June 2011 and two additional contracting officers in July 2011. Since that time, the Office of Procurement continues to create policies where needed in a continuing effort to improve our processes. Your report verifies that we have built a solid foundation upon which we can look for further opportunities for improvement.

Sincerely,

A handwritten signature in blue ink, appearing to read "David P. Gragan", is written over a light blue circular stamp.

David P. Gragan  
Assistant Director for Procurement

*Recommendation 1: Develop an internal policy describing how the CFPB implements the Federal Acquisition Regulation requirements pertaining to the agency's competition advocate.*

We concur with this recommendation, while noting that progress has been made since the audit was conducted. The Office of Procurement takes competition very seriously as its promotion and practice allow the Bureau to receive the benefits of commercial market pricing and/or discounts for goods and services by allowing the vendor community to compete for CFPB business. Furthermore, it improves quality of service, enhances solutions, and promotes fairness and openness that leads to public trust. As the report notes, our office collects and evaluates competition data on a monthly and fiscal year basis through internal and external reporting methods. In fiscal year 2011, 86% of contract dollars were competed and for fiscal year 2012, 93% of contract dollars were competed. We have made progress toward completing a competition policy that will address the role of the competition advocate and the duties required in accordance with the FAR. Moving forward, competition reporting and activities will be explicit and aligned with the role of the competition advocate as defined by the FAR. Consistent with best practice as noted in your report, my Deputy Assistant Director for Procurement shall continue in the advocate role with support from my analyst team and staff assistance in order to carry out required duties.

*Recommendation 2: Finalize, disseminate, and implement the Small Business Review Form to facilitate FAR compliance related to small business participation.*

We concur with this recommendation, while noting that progress has been made since the audit was conducted. The Office of Procurement has approved and released a small business policy with a supplemental small business review form. The policy standardizes the usage of the review form to ensure coordination with the small business specialist and consideration of small businesses during acquisition planning. Since the inception of our office, we have considered small business participation in CFPB procurements as a planning priority. This is significant because during the review period for this report, the Bureau had not yet established its Office of Minority and Women Inclusion (OMWI) and did not have another inter-Bureau office advocating for small business participation. As a result, the Office of Procurement established a goal for small business participation to include specific socio-economic categories as defined by the FAR. 36% of contract dollars were awarded to small businesses in fiscal year 2011 and 27% were awarded in fiscal year 2012. We exceeded our goals for women and small disadvantaged (minority owned) businesses in both years.

*Recommendation 3: Enhance CFPB Procedures to require documentation from the program official justifying urgent procurement requests.*

We concur with this recommendation. As you note, the review period of your report was during our early implementation stages, which necessitated the need for expedited procurement processes in order to support the emergent and growing needs of the Bureau. We are pleased that you found these expedited awards compliant with the FAR. For the particular contract mentioned, the acquisition plan was not required at the time due to the dollar value, but was completed nonetheless to further outline planning decisions for the file. Also, while some competed actions were expedited through various means, there were no instances of limiting



competition to a restricted number of sources per FAR section 6.3. Further, we have made progress in limiting expedited timelines since the audit was conducted. As the Bureau matures and our staffing plan is fully realized, our focus has been applied to enterprise-wide procurement planning across the Bureau. Coordination efforts have been conducted with other Bureau offices in order to ascertain procurement needs well in advance, which are tracked in a pre-award pipeline. This pipeline is now a part of our planning infrastructure and identifies all procurement actions in progress along with planned milestone dates from solicitation release to award. Although we have taken great care in ensuring our procurement processes (to include expedited awards) are in conformance with the FAR, our pipeline infrastructure puts us in even a better position to plan and solicit for procurement actions without the use of expedited timelines. Nonetheless, we will also institute an "Expedited Need" request form, which will be reviewed for approval by the Office of Procurement. The form will require justification of expedited processing times when such a case exists.





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