



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Office of the
Inspector General

December 2, 2015

MEMORANDUM FOR BETH F. COBERT
Acting Director

FROM: PATRICK E. McFARLAND
Inspector General

A handwritten signature in black ink that reads "Patrick E. McFarland".

SUBJECT: Results of the OIG's Special Review of the U.S. Office of Personnel Management's Award of a Credit Monitoring and Identify Theft Services Contract to Winvale Group LLC, and its subcontractor, CSIdentity (Report No. 4K-RS-00-16-024)

The Office of the Inspector General (OIG) recently conducted a special review of the U.S. Office of Personnel Management's (OPM) award of a credit monitoring and identify theft services contract to Winvale Group LLC, and its subcontractor, CSIdentity, hereafter referred to as Winvale. The purpose of our special review was to determine if OPM's Office of Procurement Operations (OPO) (formerly the Contracting Office) awarded the Winvale contract in compliance with the Federal Acquisition Regulation (FAR) and OPM's policies and procedures.

We issued our draft special review memorandum to Dean S. Hunter, Director, Facilities, Security and Emergency Management (formerly Facilities, Security, and Contracting) and OPO on September 22, 2015. OPO's October 7, 2015, comments on the draft special review were considered in preparing this final memorandum and are included as an attachment. For specific details on the special review findings, please refer to the "Findings" section of the memorandum.

This memorandum has been issued by the OIG to OPM officials for resolution of the findings and recommendations contained herein. As part of this process, OPM may release the report to authorized representatives of the reviewed party. Further release outside of OPM requires the advance approval of the OIG. Under section 8M of the Inspector General Act, the OIG makes redacted versions of its final reports available to the public on its webpage. We interpret these reporting requirements to be applicable to this memorandum.

To help ensure that the timeliness requirement for resolution is achieved, we ask that OPO coordinate with OPM's Internal Oversight and Compliance (IOC) office to provide their initial response to the OIG within 60 days from the date of this memorandum.

IOC should be copied on all responses to this final memorandum on our special review. Subsequent resolution activity for all report findings should also be coordinated with IOC. OPO should provide periodic reports through IOC to the OIG, no less frequently than each March and September. These reports should detail the status of corrective actions, including documentation to support this activity, until all findings have been resolved.

Please contact me, at (202) 606-1200, if you have any questions, or someone from your staff may wish to contact Michael R. Esser, Assistant Inspector General for Audits, at [REDACTED].

BACKGROUND:

In April 2015, OPM discovered that the personnel data (e.g., full name, birth date, home address, and social security number) of 4.2 million current and former Federal government employees had been stolen in a cyber-attack on OPM systems. In order to mitigate the risk of fraud and identity theft, OPM's Office of the Chief Information Officer (OCIO) determined that credit monitoring and identity theft services would be needed to protect the affected individuals, and that the contract for these services needed to be awarded by June 8, 2015.

On May 25, 2015, the OCIO provided OPO with a statement of work outlining the services needed, including: notification services; credit monitoring services; identity theft insurance and recovery services; and project management, hereafter referred to as the "Requirements." OPO designated a contracting officer to work with the OCIO in awarding the contract to ensure all required contracting actions were performed, all parties comply with the terms of the contract, and the interests of the United States in its contractual relationship are safeguarded.

The contracting officer worked with the OCIO to conduct market research for the Requirements, which included discussions with a General Services Administration (GSA) representative, as well as reviewing GSA's Federal Supply Schedule and Catalog and Product Literature. Based on the market research, the contracting officer determined that there were a sufficient number of sources to provide for effective competition on a commercial open market solicitation. The contracting officer also determined that a blanket purchase agreement (a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply) was the best contracting vehicle to use for the solicitation and request for quotes.

On May 28, 2015, the contracting officer posted the solicitation on the Federal Business Opportunities website, also known as FedBizOpps, with a May 30, 2015 response date for contractor bids. Three bids were received and the contracting officer and the OCIO performed a technical evaluation, which included comparing the contractors' solicitation responses and reviewing past performance history and quotes for best value. On June 2, 2015, the contracting

officer signed a binding agreement with Winvale Group, LLC, who subcontracted with CSIdentity, also known as CSID, and issued a blanket purchase agreement call order for \$7,792,113.88, not to exceed \$20,760,741.63, for 18 months of credit report access and monitoring and \$1 million in identity theft insurance and recovery services for each of the affected individuals.

SCOPE AND METHODOLOGY:

We performed our review from July 1 through August 11, 2015, at OPM's headquarters in Washington, D.C.; OPM's offices in Boyers, Pennsylvania; and GSA's headquarters in Washington, D.C. The scope of our review covered the contracting process over the Winvale contract.

To accomplish the review, we:

- Held meetings with the contracting officer for the Winvale contract, the Senior Procurement Executive, the Director of OPO, the Director of OPO's Policy and Procurement Innovations, and a GSA representative;
- Reviewed the FAR and OPM's small business policy; and,
- Reviewed and analyzed the acquisition plan, marketing plan, solicitation, request for quotes, system for award management documentation, performance evaluation, and other documentation within the contract file to ensure compliance with the FAR and OPM's policies and procedures.

FINDINGS:

Based on our analysis, we determined that in order to meet the OCIO's June 8, 2015, Requirements due date, the contracting officer failed to comply with FAR requirements and OPM policies and procedures in awarding the Winvale contract. Specifically, we identified five areas of noncompliance with the FAR and OPM's policies and procedures as described below.

I. Incomplete Statement of Work

The contracting officer is responsible for ensuring that program offices provide a performance work statement that describes the required results in clear, specific, and objective terms and includes measurable outcomes.

FAR 37.602(b) states:

Agencies shall, to the maximum extent practicable-

- (1) Describe the work in terms of the required results rather than either “how” the work is to be accomplished or the number of hours to be provided (see 11.002(a)(2) and 11.101);
- (2) Enable assessment of work performance against measurable performance standards;
- (3) Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work.

We determined that the performance work statement for this contract award included the scope, period and place of performance, background, and performance objectives. However, the performance work statement was missing measurable performance standards and the method of assessing contractor performance. Therefore, the contracting officer did not ensure the performance work statement met the FAR requirements.

OPO’s Response:

OPO concurs with this finding. “OPO will apply performance based contracting mechanisms to suitable requirements to the maximum extent practicable, as referenced in the Federal Acquisition Regulation (FAR) subpart 37.6.”

II. Inadequate Market Research

Failure to Use a Small Business Specialist

The contracting officer is responsible for collecting and analyzing information about capabilities within the market to satisfy agency needs, also known as market research. Further, FAR 19.202-1 states that “[t]he contracting officer shall provide a copy of the proposed acquisition package to the Small Business Acquisition procurement center representative at least 30 days prior to the issuance of the solicitation.” Supplementing the FAR, OPM’s small business review policy states that “All acquisitions over \$150,000 must be reviewed and approved by the [small business specialist] prior to synopsis in FedBizOpps.”

In the market research report for the Winvale contract, the contracting officer stated that the Requirements were reviewed with a small business specialist in OPM’s Office of Small and Disadvantaged Business Utilization (OSDBU), and checked the box on the market research report to indicate this was done. Upon further review with the OSDBU,

it was determined that the contracting officer did not involve a small business specialist in the market research.

We determined that the contracting officer inappropriately concluded that the market research was sufficient and did not require further analysis by a small business specialist.

OPO's Response:

OPO concurs with this finding. "OPO has been actively working with the OPM Office of Small and Disadvantaged Business Utilization (OSDBU) to update and implement additional guidance to clarify roles and responsibilities."

Inconclusive Determination on the use of GSA's Federal Supply Schedule

GSA's Schedules Program serves as the catalyst for billions of dollars in Federal spending, helping to meet procurement needs for eligible users, including all branches of Federal, State, and Local government through applicable programs. Specifically, GSA's Federal Supply Schedule (hereafter GSA Schedule) provides Federal agencies with a simplified process for obtaining commercial supplies and services. The FAR encourages Federal agencies to use the GSA Schedule.

FAR 8.402 states, "For administrative convenience, an ordering activity contracting officer may add items not on the [GSA Schedule] (also referred to as open market items) to a [GSA Schedule] blanket purchase agreement (BPA) or an individual task or delivery order only if ... (3) The items are clearly labeled on the order as items not on the [GSA Schedule]."

The contracting officer's market research report states that "[while the GSA Schedule] offered similar services, the available schedule contracts did not contain the full scope of OPM requirements which could be satisfied through a commercial open market solicitation."

During an interview with the GSA representative who was contacted by the contracting officer during the award process, we were informed that the GSA Schedule could have potentially met the Requirements. However, the GSA representative never received the specifications of the Requirements. We also noted that two of the four vendors on the GSA Schedule submitted a bid on the Requirements, which leads us to believe that the GSA schedule was a feasible option through which OPM could have fulfilled the Requirements.

The GSA representative did inform the contracting officer that if OPM used the GSA Schedule that the contract could have been awarded within two weeks to a month, which would have been outside of the OCIO's self-imposed timeline for awarding the contract.

We concluded that the contracting officer did not submit the Requirements to the GSA representative because an award through GSA would have caused the OCIO's Requirements due date to be missed.

OPO's Response:

OPO concurs with this finding. "In the future, if the [contracting officer (CO)] determines GSA schedules do not readily meet agency needs, the CO shall first consider whether GSA can modify its contracts timely to support OPM, as compared to the time and effort necessary and potential costs savings recognized in procuring the requirement in full through another, separate strategy."

Lack of an Independent Government Cost Estimate

Market research also requires the contracting officer to obtain cost estimates for the Requirements. FAR 10.002 states that "[m]arket research involves obtaining information specific to the item being acquired and should include – the distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates." An independent government cost estimate from the OCIO and estimated costs from vendors are meant to assist OPO in selecting the appropriate contract vehicle by identifying the estimated resources and the projected costs of those resources a contractor will incur in the performance of a contract.

We were informed by the contracting officer that an independent government cost estimate was not requested from the OCIO because meeting the OCIO's Requirements due date took precedence. In addition, we determined that the contracting officer did not obtain estimated costs from vendors during market research.

OPO's Response:

OPO concurs with this finding. They state that "Established guidance titled *Procurement Administrative Lead Time (PALT) and Cut Off Dates for Fiscal Year 2015* dated March 18, 2015 was signed by OPM leadership, and reflects the necessity for an [independent government cost estimate (IGCE)] in a complete procurement package. Additionally, OPO has staffed its office with Cost and Price analysts, never before available in OPM, which assist customers with the proper development of IGCEs. The

PALT guidance shall be redistributed within OPM, and OPO cost and pricing support made available to customers to the greatest extent practicable to ensuring this requirement is successfully met.”

III. Incomplete Acquisition Plan

The acquisition plan provides an overall strategy for managing the contract award process for the Requirements. FAR 7.103(j) states that the agency head or a designee shall prescribe procedures for “[r]eviewing and approving acquisition plans and revisions to these plans to ensure compliance with FAR requirements,” including general acquisition planning procedures and selecting contract types. Under OPM’s procurement practice, the contracting officer prepares the acquisition plan and submits it for approval within OPO if the cost estimate for the Requirements is over \$150,000.

We were informed by the contracting officer that the acquisition plan was drafted prior to the contract award; however, we were unable to verify when the acquisition plan was prepared. Per the contracting officer, in an emergency and other situations in which time constraints are placed on the contract award process, as with the June 8, 2015 deadline set by the OCIO for the Winvale contract, it is not abnormal for required documents to be prepared after the award.

In addition, we determined that the acquisition plan was not approved by a higher level official above the contracting officer prior to the contract award on June 2, 2015. During a meeting with OPO, we were informed that contracting staff and officials could not determine who was responsible for approving the acquisition plan due to outdated policies and procedures, and that the office is in the process of updating its policies and procedures.

OPO’s Response:

OPO concurs with this finding. “The acquisition plan has since been appropriately signed and included in the electronic file, September 1, 2015. Although the formal acquisition plan was not documented and signed until after award, it is important to note that those actions and procedures documented in the plan were followed to the maximum extent practicable before award.

As further referenced in the recommendation section below, OPO has an established schedule for the formal release and briefing of updated review and approval guidance which clearly present the acquisition planning documentation requirements and associated approval levels.”

OIG Comment:

Based on OPO's response to our draft memorandum, we have verified that the Director of OPO approved the acquisition plan on September 1, 2015.

IV. Blanket Purchase Agreement Call Exceeded FAR Limitation

FAR 13.303-5 states "[t]he limitation for individual purchases for commercial item acquisition conducted under Subpart 13.5 is \$6.5 million." Subpart 13.5 governs the simplified procedures for the acquisition of certain commercial items, and thus applies to this situation.

The contracting officer issued a blanket purchase agreement call order on June 2, 2015, in the amount of \$7,792,113.88. During a meeting with the contracting officer, we were informed that this call exceeded the FAR blanket purchase agreement limitation of \$6.5 million for individual purchases of a commercial item acquisition.

On July 15, 2015, OPO provided us with a synopsis of their internal review of the Winvale contract. OPO acknowledged that "[d]ue to OPM's need to deliver services in accordance with the required schedule the Contracting Officer (CO) moved forward with the procurement without receiving an independent government cost estimate (IGCE) from the program office. In the absence of an IGCE, the CO developed a procurement strategy based on his prior experience purchasing similar services at a lower quantity using commercial simplified acquisition procedures under FAR Parts 12 and 13. Because the services being secured under the awarded [blanket purchase agreement] and Call Order are driven by the total quantity of impacted personnel and because that total quantity had increased due to ongoing breach investigation it is recognized that the requirement[s] exceed the expanded FAR 13.5 Test Program threshold."

On August 3, 2015, OPO modified the blanket purchase agreement to change the contracting vehicle to a basic ordering agreement, which does not have a purchasing threshold limitation on procured services. We were informed by OPO that the change added no additional cost to the agreement.

OPO's Response:

OPO concurs with this finding.

V. Unreliable Contract File

FAR 4.801 states that “[t]he documentation in the files (see 4.803) shall be sufficient to constitute a complete history of the transaction for the purpose of— (1) Providing a complete background as a basis for informed decisions at each step in the acquisition process; (2) Supporting actions taken; (3) Providing information for reviews and investigations; and (4) Furnishing essential facts in the event of litigation or congressional inquiries.”

Further, FAR 4.1103 states that “the contracting officer— [s]hall verify that the prospective contractor is registered in the [System for Award Management¹].” Supplementing the FAR, OPO’s contracting process calls for the contracting officer to verify that the contractor is in the System for Award Management before awarding a contract.

We were unable to obtain an accurate history of the actions taken by the contracting officer because key documents, specifically, the market research plan, acquisition plan, and System for Award Management support, were not prepared until after the contract award. During our review we identified the following issues:

1. The market research plan contained erroneous information, such as the contracting officer’s indication that a small business specialist was consulted, and that the GSA Schedule could not meet the OCIO’s Requirements. (See finding II, *Inadequate Market Research*, on pages 4 and 5 for details)
2. The contracting file indicated that the System for Award Management was not referenced until June 22, 2015, which is after the award of the blanket purchase agreement call on June 2, 2015.
3. The acquisition plan was incomplete at the time of the award. Consequently, there are gaps in the contracting file that can be filled only by the contracting officer’s recollection. (See finding III, *Incomplete Acquisition Plan*, on page 7 for details).

Due to these issues, we are not confident that the contracting file gives a complete and accurate history of the actions taken to award the contract.

¹ The System for Award Management is the official U.S. Government system that combines federal procurement systems and the Catalog of Federal Domestic Assistance into one new system.

OPO's Response:

OPO partially concurs with this finding. "We concur that the market research report, acquisition plan, and systems for award management (SAM) print out were not formally documented and placed in the file until after award, however we do not concur that this results in an unreliable contract file. Although the formal market research, acquisition plan and SAM printout were not documented and signed until after award, it is important to note in this instance that the actions and procedures documented therein were followed to the maximum extent practicable before award and have since been finalized and are located in the complete electronic file. The electronic file associated with the award is complete and reliable, and constitutes the official record for which any future contracting actions or decisions must be based. It is always the best practice to document and finalize contractual documents contemporaneously, rather than to memorialize the actions of the procurement team after award of the contract. OPO will continue to work with program offices in identifying requirements in a timely manner, cognizant of PALT estimates so that this can occur to the maximum extent practicable.

Additionally, as further referenced in the recommendation section below, the SPE [Senior Procurement Executive] within OPO prepared a memorandum regarding complete and accurate contract files. The memorandum was broadcasted on October 1, 2015 to the OPO team in its entirety and emphasized the importance of following FAR subpart 4.8 and appropriately maintaining a well-documented contract file, where those documents are prepared and approved at or before the associated milestone/decision point and not after it."

OIG's Reply:

Even if the contract file has now been completed, months after contract award, decisions were made and actions taken during the process of awarding the contract with incomplete and erroneous information due to OPO's failure to keep the contract file up-to-date. This increases the risk of mistakes being made, the very thing that the FAR contract file requirements were designed to avoid. Indeed, FAR 4.801 specifically states that the purpose of these requirements is to provide "a complete" background as a basis for informed decisions at each step in the acquisition process.

CONCLUSION

While we are unable to determine if these areas of noncompliance would have resulted in the award of the contract to a party other than Winvale, it is evident that significant deficiencies existed in OPO's management of the contract award process.

OPO’s circumvention of FAR requirements increased the risk of making an improper award by having an incomplete performance work statement, failing to obtain an independent government cost estimate, having an incomplete acquisition plan, and conducting inadequate market research, including the failure to consult with a small business specialist. As a result, the wrong contracting vehicle was utilized in awarding the Winvale contract, the FAR blanket purchase agreement call limit was exceeded, and millions of taxpayer dollars were put at risk for waste or loss.

RECOMMENDATIONS

Recommendation 1

We recommend that OPO immediately update its policies and procedures, to include but not be limited to, guidance for contract document approvals, emergency acquisitions, and contract file completion to ensure compliance with the FAR. When completed, contracting staff should be notified of the changes.

OPO’s Response:

OPO concurs with this recommendation.

“In response to the findings of an independent assessment and the ongoing OIG audit, OPO is already in the process of updating contracting policy and procedural guidance in the above referenced areas, including document review and approval levels, emergency and/or highly visible efforts, and complete and accurate contract files. Several have already been developed, reviewed, and approved through the SPE, Director of Contracts, Office of General Counsel (OGC), and Labor Relations. Specifically, review and approval, warrant refresh, and contract review board (CRB) guidance are to be implemented as follows:

Guidance	Operational Broadcast	Operational Briefings	Formal Implementation
Review & Approval Levels	October 5, 2015	October 14, 15, 16, 2015	October 19, 2015
Warrant Refresh	October 12, 2015	October 21, 2015	October 29, 2015
Contract Review Board	October 26, 2015	November 4, 5, 6, 2015	November 9, 2015

Specifically pertaining to the appropriate construction of a complete and reliable contract file, the Senior Procurement Executive (SPE) within OPO has prepared a memorandum which was

broadcasted on October 1, 2015 to the OPO team in its entirety. This memorandum reminds contracting officials of the importance of following FAR subpart 4.8 and in maintaining a well-documented contract file, where those documents are prepared and approved at or before the associated milestone/decision point and not thereafter.”

Recommendation 2

We recommend that OPO implement controls to ensure that each contract is in compliance with the FAR requirements and contracting actions are documented and approved prior to contract award.

OPO’s Response:

OPO concurs with this recommendation.

“Throughout fiscal year 2015 OPO has focused on building its oversight infrastructure and addressing serious staffing gaps through the addition of operational contract specialists and also experienced procurement analysts and cost and pricing analysts. These additions will ensure OPO continues to move progressively towards a well-established, consistent oversight and compliance program.

Immediately going forward OPO has a deliberate plan to implement a CRB process, detailed above under Recommendation #1, which provides oversight and compliance controls, including document reviews by the Director of Contracts, OGC, Acquisition Policy, customer, and operational contracting personnel at critical milestones in the procurement process. Additionally, as referenced above under Recommendation #1, SPE has broadcasted a memorandum which emphasizes the importance of following FAR subpart 4.8 and in maintaining a well-documented contract file, where those documents are prepared and approved at or before the associated milestone/decision point and not thereafter. In addition to the above guidance and communication, additional resources shall ensure OPO continues enhancing the quality of the contracting work product.”

Attachment

cc: Kiran Ahuja
Chief of Staff

Robin E. Jacobsohn
General Counsel

Grant Schneider
Senior Advisor



Special Counsel/Senior Advisor, Office of the General Counsel

Angela Bailey
Chief Operating Officer

Mark W. Lambert
Associate Director, Merit System Accountability and Compliance

Janet L. Barnes
Director, Internal Oversight and Compliance



Acting Chief, Policy and Internal Control



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Facilities, Security and
Emergency Management
And
Office of Procurement
Operations

October 7, 2015

MEMORANDUM FOR

MICHAEL R. ESSER
Assistant Inspector General for Audits

FROM:

DEAN S. HUNTER
Director, Facilities, Security and Emergency
Management

NINA M. FERRARO
Senior Procurement Executive, Office of
Procurement Operations

Handwritten signatures of Dean S. Hunter and Nina M. Ferraro, written in black ink over their respective typed names.

SUBJECT:

Draft- Results of the OIG's Special Review of the U.S. Office of Personnel Management's Award of a Credit Monitoring and Identify Theft Services Contract to Winvale Group LLC, and its subcontractor, CSIdentity

Thank you for providing us the opportunity to respond to the Office of the Inspector General (OIG) draft report, *Draft- Results of the OIG's Special Review of the U.S. Office of Personnel Management's Award of a Credit Monitoring and Identify Theft Services Contract to Winvale Group LLC, and its subcontractor, CSIdentity*, dated September 22, 2015.

The response provided herein includes dual signatures which are representative of the recently executed reorganization within OPM, Facilities, Security, and Contracting (FSC) dated September 20, 2015. Under the reorganization, the Contracting Office now operates as the Office of Procurement Operations (OPO) reporting to the Office of the Director through the Chief Operating Officer. This change recognizes the critical importance of the procurement function within OPM, elevating the office commensurately to that of the Office of the Chief Financial Officer and others to ensure greater and more direct collaboration with program offices, and visibility and compliance with procurement related requirements. In addition to a more direct line of communication with senior leadership, the reorganization supports a newly structured procurement office addressing critical and long standing staffing shortages. OPO now

includes new positions, such as senior procurement analysts in the Acquisition Policy and Innovation division, to support greater emphasis on policy and procedure development and increased oversight.

Included in this response are the comments, supplementary information, and corrective actions associated with the OIG Draft Memorandum of Findings dated September 22, 2015. Responses are offered in the order with which findings were presented in the referenced OIG Memorandum. In the event any of the responses and/or corrective actions provided herein require further discussion and/or clarification we will make ourselves available to you and your team.

We recognize that even the most well run programs benefit from external evaluations and we appreciate your input as we continue to enhance our program. Our responses to your findings and recommendations are provided immediately below.

FINDINGS

Finding #1: Incomplete Performance Work Statement: Omission of measurable performance standards and the method of assessing contractor performance.

Management Response

Concur. The referenced OPM awarded data breach agreement could have included well defined metrics that would provide the Contracting Officer (CO) and Contracting Officer's Representative (COR) a better means by which to assess contractor performance. OPO worked as a part of an interagency team, including the Naval Sea Systems Command (NAVSEA) and the General Services Administration (GSA) to ensure performance standards were included, as appropriate, in the second data breach contract awarded by NAVSEA.

OPO will apply performance based contracting mechanisms to suitable requirements to the maximum extent practicable, as referenced in the Federal Acquisition Regulation (FAR) subpart 37.6.

Finding #2: Inadequate Market Research: Lacking Small Business Specialist Involvement; Inconclusive Determination on the use of the Federal Supply Schedule (FSS)/General Services Administration (GSA); Omission of Independent Government Cost Estimate.

Management Response

Lacking Small Business Specialist Involvement

Concur. Appropriate involvement of the small business specialist should have been secured during the market research phase of the OPM data breach requirement. Although

this did not occur, small business participation was in fact realized and award was made to The Winvale Group, LLC, a small business concern that demonstrated prior experience in this type of work.

OPO has been actively working with the OPM Office of Small and Disadvantaged Business Utilization (OSDBU) to update and implement additional guidance to clarify roles and responsibilities.

Determination on the use of the Federal Supply Schedule (FSS)/General Services Administration (GSA)

Concur. Consideration was made to those available GSA contracts which included scope that could support the OPM requirements in part.

In the future, if the CO determines GSA schedules do not readily meet agency needs, the CO shall first consider whether GSA can modify its contracts timely to support OPM, as compared to the time and effort necessary and potential costs savings recognized in procuring the requirement in full through another, separate strategy.

Omission of Independent Government Cost Estimate

Concur. An independent government cost estimate (IGCE) was not prepared in support of the OPM data breach requirement and should have accompanied the requirements package when it was delivered to OPO.

Established guidance titled *Procurement Administrative Lead Time (PALT) and Cut Off Dates for Fiscal Year 2015* dated March 18, 2015 was signed by OPM leadership, and reflects the necessity for an IGCE in a complete procurement package. Additionally, OPO has staffed its office with Cost and Price analysts, never before available in OPM, which assist customers with the proper development of IGCEs. The PALT guidance shall be redistributed within OPM, and OPO cost and pricing support made available to customers to the greatest extent practicable to ensuring this requirement is successfully met.

Finding #3: Incomplete Acquisition Plan: Documentation and Signature of Plan Executed After Award.

Management Response

Concur. The formal acquisition plan required by FAR subpart 7.1 was not documented, signed, or placed in the file prior to award. The acquisition plan has since been appropriately signed and included in the electronic file, September 1, 2015. Although the formal acquisition plan was not documented and signed until after award, it is important to note that those actions and procedures documented in the plan were followed to the maximum extent practicable before award.

As further referenced in the recommendation section below, OPO has an established schedule for the formal release and briefing of updated review and approval guidance which clearly present the acquisition planning documentation requirements and associated approval levels.

Finding #4: Blanket Purchase Agreement (BPA) Call Exceeded FAR Limitation: BPA Executed In Accordance with FAR Subpart 13.5 Exceeded \$6.5M Threshold.

Management Response

Concur. The threshold within FAR subpart 13.5 which was referenced as the underlying authority used in soliciting and awarding the discussed BPA Call was exceeded.

OPO recognized this finding prior to the initiation of the OIG special review and immediately analyzed the issue. The CO developed a correction plan and provided it to the OIG for comment. Further, a draft bilateral modification to execute the correction plan was also offered to the OIG on July 28, 2015 for review and comment prior to implementation. The CO determined that the corrective action taken did not prejudice other interested parties and the bilateral modification was duly executed on August 8, 2015, at no additional cost to the Government.

Finding #5: Unreliable Contract File: Market Research, Acquisition Plan, and Systems for Award Management (SAM) Documented Until After Award.

Management Response

Partially concur. We concur that the market research report, acquisition plan, and systems for award management (SAM) print out were not formally documented and placed in the file until after award, however we do not concur that this results in an unreliable contract file. Although the formal market research, acquisition plan and SAM printout were not documented and signed until after award, it is important to note in this instance that the actions and procedures documented therein were followed to the maximum extent practicable before award and have since been finalized and are located in the complete electronic file. The electronic file associated with the award is complete and reliable, and constitutes the official record for which any future contracting actions or decisions must be based. It is always the best practice to document and finalize contractual documents contemporaneously, rather than to memorialize the actions of the procurement team after award of the contract. OPO will continue to work with program offices in identifying requirements in a timely manner, cognizant of PALT estimates so that this can occur to the maximum extent practicable.

Additionally, as further referenced in the recommendation section below, the SPE within OPO prepared a memorandum regarding complete and accurate contract files. The memorandum was broadcasted on October 1, 2015 to the OPO team in its entirety and emphasized the importance of following FAR subpart 4.8 and appropriately maintaining

a well-documented contract file, where those documents are prepared and approved at or before the associated milestone/decision point and not after it.

RECOMMENDATIONS

Recommendation #1: We recommend that OPM's Contracting Office immediately update its policies and procedures, to include but not be limited to guidance for contract document approvals, emergency acquisitions, and contract file completion to ensure compliance with the FAR. When completed, contracting staff should be notified of the changes.

Management Response

Concur. In response to the findings of an independent assessment and the ongoing OIG audit, OPO is already in the process of updating contracting policy and procedural guidance in the above referenced areas, including document review and approval levels, emergency and/or highly visible efforts, and complete and accurate contract files. Several have already been developed, reviewed, and approved through the SPE, Director of Contracts, Office of General Counsel (OGC), and Labor Relations. Specifically, review and approval, warrant refresh, and contract review board (CRB) guidance are to be implemented as follows:

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Recommendation #2: We recommend that OPM's Contracting Office implement controls to ensure that each contract is in compliance with the FAR requirements and contracting actions are documented and approved prior to contract award.

Management Response

Concur. Throughout fiscal year 2015 OPO has focused on building its oversight infrastructure and addressing serious staffing gaps through the addition of operational contract specialists and also experienced procurement analysts and cost and pricing analysts. These additions will ensure OPO continues to move progressively towards a well-established, consistent oversight and compliance program.

Immediately going forward OPO has a deliberate plan to implement a CRB process, detailed above under Recommendation #1, which provides oversight and compliance controls, including document reviews by the Director of Contracts, OGC, Acquisition Policy, customer, and operational contracting personnel at critical milestones in the procurement process. Additionally, as referenced above under Recommendation #1, SPE has broadcasted a memorandum which emphasizes the importance of following FAR subpart 4.8 and in maintaining a well-documented contract file, where those documents are prepared and approved at or before the associated milestone/decision point and not thereafter. In addition to the above guidance and communication, additional resources shall ensure OPO continues enhancing the quality of the contracting work product.

In conclusion, we appreciated the opportunity to respond to this draft report. If you have any questions regarding our response, please contact [REDACTED] [REDACTED] and [REDACTED]@opm.gov.

Enclosures

- *Procurement Administrative Lead Time (PALT) and Cut Off Dates for Fiscal Year*
- *SPE Broadcast and Director of Contracts Memorandum, FAR 4.8 Contract Files*