

OFFICE OF  
INSPECTOR GENERAL

## **Audit Report**

The Farm Credit Administration's  
Contracting Activities  
A-17-02

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Issued May 22, 2017



FARM CREDIT ADMINISTRATION



May 22, 2017

The Honorable Dallas P. Tonsager, Board Chairman  
The Honorable Jeffery S. Hall, Board Member  
Farm Credit Administration  
1501 Farm Credit Drive  
McLean, Virginia 22102-5090

Dear Board Chairman Tonsager and FCA Board Member Hall:

The Office of Inspector General (OIG) completed an audit of the Farm Credit Administration's (FCA or Agency) Contracting Activities. The objective of this audit was to determine whether FCA's contracting process was effectively administered.

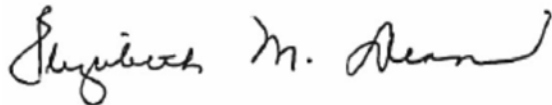
We found the contracting process is effectively administered. FCA has implemented and/or augmented aspects of the contracting process to improve effectiveness and efficiency. Although FCA has made positive changes, we identified opportunities for further improvement to the contracting process. In response to our report, the Office of Agency Services (OAS) agreed to:

1. Develop a plan with milestones to ensure contract file documentation is complete. Where feasible, OAS will include automation options.
2. Provide all FCA Contracting Officer's Representatives (CORs) with a handbook or other educational/reference materials on documentation requirements, invoice reviews, and overall responsibilities.
3. Revise the contract file content checklist to include a comprehensive checklist of steps from solicitation to closeout in contract files.
4. Coordinate with the Office of General Counsel to develop contract language requiring contractors to identify potential conflicts of interest throughout the performance of the contract, especially in light of FCA's regulatory mission.
5. Revise the contractor onboarding process to ensure required forms are obtained and placed in the contract files.
6. Update PPM 812, PPM 840, Office Directives, and the Contracts Desk Manual, to include the following topics:
  - a. Contract closeout,
  - b. Conflict of interest statement requirements,

- c. Legal reviews,
  - d. Contractor onboarding,
  - e. COR appointment threshold,
  - f. Section 508 compliance,
  - g. Standard contract clauses, and
  - h. Budget reporting process for contracts
7. Develop a listing of standard contract clauses for FCA procurements and implement a policy to ensure this repository is up to date.

We appreciate the courtesies and professionalism extended by FCA personnel to the OIG staff. If you have any questions about this audit, I would be pleased to meet with you at your convenience.

Respectfully,

A handwritten signature in black ink that reads "Elizabeth M. Dean". The signature is written in a cursive style with a large initial "E" and a long, sweeping underline.

Elizabeth M. Dean  
Inspector General

Enclosure



# EXECUTIVE SUMMARY

A-17-02

## AGREED-UPON ACTIONS:

In order to improve contract administration, OAS agreed to:

1. Develop a plan with milestones to ensure contract file documentation is complete. Where feasible, OAS will include automation options.
2. Provide all FCA CORs with a handbook or other educational/reference materials on documentation requirements, invoice reviews, and overall responsibilities.
3. Revise the contract file content checklist to include a comprehensive checklist of steps from solicitation to closeout in contract files.
4. Coordinate with the Office of General Counsel to develop contract language requiring contractors to identify potential conflicts of interest throughout the performance of the contract, especially in light of FCA's regulatory mission.
5. Revise the contractor onboarding process to ensure required forms are obtained and placed in the contract files.
6. Update PPM 812, PPM 840, Office Directives, and the Contracts Desk Manual, to include the following topics:
  - a. Contract closeout,
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  - e. COR appointment threshold,
  - f. Section 508 compliance,
  - g. Standard contract clauses, and
  - h. Budget reporting process for contracts.
7. Develop a listing of standard contract clauses for FCA procurements and implement a policy to ensure this repository is up to date.

## AUDIT OF THE FARM CREDIT ADMINISTRATION'S CONTRACTING ACTIVITIES

The Farm Credit Administration (FCA or Agency) is an independent Federal agency responsible for regulating, examining, and supervising the Farm Credit System and the Federal Agricultural Mortgage Corporation. In order to fulfill mission requirements, the Agency executes and administers contracts to meet the needs of the Agency. As a non-appropriated Agency, FCA is not subject to the Office of Federal Procurement Policy Act or the Federal Acquisition Regulation.

The objective of this audit was to determine whether FCA's contracting process is effectively administered. We found the process is effectively administered, but needs to make additional improvements, including:

- Our review identified examples where contracting procedures were not followed. We identified two employee benefit contracts that did not include standard contract documentation and language. Both of these contracts also needed to be ratified. Ratification refers to the approval of an unauthorized commitment. Other contracts in our sample included errors in contract documentation or unspecified payment terms.
- Contract clauses included in documentation were outdated, incomplete, and/or missing. 13 of 29 contract files in our sample did include documentation with standard clauses, and all 13 contained partially outdated FAR references, dates, and/or titles. The Agency didn't have a repository of required standard clauses.
- Although the Agency developed and began using a form for contractor onboarding, there was an inconsistent approach to how the onboarding process was initiated, documented, and updated. Forms were not always completed and placed in the contract file, and the process for reviewing the form and determining required next steps was not always documented.
- We noted various examples in our sample where documentation could be improved. Examples of documentation missing from official contract files included: letters designating the Contracting Officer's Representative (COR), interagency agreements, statements of work, proposals, and evaluations of proposals.
- The Agency needs to revise aspects of the contracting process. Beyond the de-obligation reporting process through Office of the Chief Financial Officer, contracting staff did not have a closeout process in place. Conflict of interest statements were not always required by contracting staff and officials involved in rating and selection. In addition, current processes for accessibility and legal reviews of contract documents were not consistent and fully documented.

The Office of Agency Services (OAS) agreed with our report and provided tasks to be completed. OAS stated it would develop a contract documentation milestone plan, handbook, and revised checklist. OAS also plans to address potential conflicts of interest in contract language, revise the contractor onboarding process, revise policies and procedures, and develop a listing of standard contract clauses.

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## BACKGROUND

The Farm Credit Administration (FCA or Agency) is an independent Federal agency responsible for regulating, examining, and supervising the Farm Credit System and the Federal Agricultural Mortgage Corporation. The mission of the Agency is to ensure a safe, sound, and dependable source of credit and related services for agriculture and rural America.

In order to fulfill mission requirements, the Agency executes and administers contracts and agreements to meet the needs of the Agency. As a non-appropriated Agency, FCA is not subject to the Office of Federal Procurement Policy Act or the Federal Acquisition Regulation (FAR). Although not required, FCA has used the FAR as guidance for contracting activity.

### Contracting Staff

The FCA Chairman has delegated contracting authority to the Agency's primary Contracting Officer in Delegation 09, *Delegation to Serve as Contracting Officer*. The Agency has a second Contracting Officer with a purchasing limit of \$150,000 as of 2017. Contracting Officers enter into, administer, and terminate contracting actions on behalf of FCA.

The Agency also utilizes contract specialists who assist the Contracting Officers, maintain contract files, and communicate with staff on procurement actions. The Agency has one Contracting Specialist but has an ongoing contract for another temporary Contracting Specialist. For selected contracts, a Contracting Officer's Representative (COR) is also chosen from FCA program offices. The COR is generally responsible for developing contract specifications, determining when contract changes are needed, and monitoring the contractor's performance of technical requirements.

### Contracting Process

Contracting is a multi-step process which is monitored and modified as needed throughout the period of performance. The first phase of the process requires determining the needs of the program office and defining requirements, deliverables, and milestones. A statement of work can be used to solicit proposals and identify qualified contractors in consulting, advisory, and assistance services contracts. Once a contractor is selected, contractual documents are finalized and the contract is formally executed. An executed contract is officially agreed-upon by both parties.

An option year, identified as potential continued performance, gives the agency the ability to execute the contract for an additional year, if needed and appropriate. The option year is exercised through a modification of the original award. This is completed prior to the end of the period of performance of the award.

### Agency Policies and Procedures

The Agency's contracting procedures are primarily documented in Policies and Procedures Manual (PPM) 812, *Contracting/Procurement Policy*. PPM 812 establishes guidelines to help meet the goal to acquire products and services that will provide the best value to the FCA in a timely manner that most effectively meets program needs. PPM 812 also states, "the acquisition process shall, accordingly, encourage flexibility, innovation, responsiveness, and the use of sound business judgment." FCA also documents its contracting process in the Contracts Desk Manual, other office directives, and PPM 840, *Role and Responsibility of the Contracting Officer's Technical Representative*.

## Prior Reviews

In 2011, the Office of Inspector General (OIG) conducted an audit, [\*Contracting Activities \(A-11-01\)\*](#), to determine whether FCA's contracting environment was efficient and effective in acquiring products and services that provided the best value to FCA. As a result of the audit, the Agency took the following actions prior to issuance of the final report:

1. Obtained a legal opinion on examiner assistant contracts being inconsistent with Federal and Agency guidelines resulting in non-governmental contractors performing an inherently governmental function and providing personal services and took appropriate action;
2. Included in the Agency's ethics and contracting program an Agency policy on acceptable and prohibited conditions relevant to contracting practices with former FCA and FCS employees and examples of prohibited contract award practices;
3. Strengthened internal controls over the contract administration function by performing quarterly and annual reviews;
4. Established a policy that identifies training required of the contracting officer and contract specialist;
5. Ensured the contracting officer and contract specialist develop an annual training plan;
6. Revised the Contracts Desk Manual; and,
7. Addressed the inconsistency in delegated authority to the contracting officer.

The OIG also conducted an inspection, [\*IT Equipment Acquisition \(I-12-01\)\*](#), to determine whether the Agency's acquisition process for IT equipment was appropriately planned and administered. As a result of the audit, the Agency took the following actions:

1. Defined rating numbers on the laptop evaluation form;
2. Included evaluation committee members in the entire evaluation and laptop recommendation process;
3. Required all staff involved in the model and vendor selection process to sign a conflict-of-interest statement; and
4. Identified an evaluation method to apply on all IT equipment purchases.

All agreed-upon actions were closed in September 2012.

## AUDIT RESULTS

The objective of this audit was to determine whether FCA's contracting process is effectively administered. We found the process is effectively administered, but there are opportunities for additional improvements. FCA has implemented and/or augmented aspects of the contracting process to improve effectiveness and efficiency:

- During our last audit in 2011, the Agency had one Contracting Officer and one Contract Specialist. Since then, FCA has increased the overall contracting staff to include two Contracting Officers and two Contracting Specialists (one is a full-time FCA employee and one is a temporary contractor).
- Contracting staff are qualified and trained according to internal policies and procedures. The Contracts Desk Manual states contracting personnel will receive at least 80 hours of training within a two-year period. We did not identify any exceptions to the training requirements.
- FCA maintained a system for contract files. Contracting staff had a systematic approach to how the files would be maintained and began using a checklist for file completeness. Even though the contract files are stored in hard copy form, every file requested was available and maintained at FCA.
- Contracting personnel are working with FCA's Office of Information Technology to automate some of the contracting processes. There have been discussions on automating a form for contractor onboarding and using additional features in the contracting system to increase efficiencies.

Although FCA has made positive changes, we identified opportunities for further improvements to contract administration and processes.

### **Contract Administration**

In order to answer our objective, we sampled and reviewed 29 contract files from fiscal years 2015 and 2016. The contract files we reviewed totaled approximately \$6.1 million. From our review, we identified areas that could be improved including: contract procedures, contract clauses, contractor onboarding, and documentation.

#### *Following Contracting Procedures*

As a non-appropriated fund Agency, FCA is not subject to the FAR. Procurement requirements are established in Agency policies and procedures. FCA contracting procedures are designed to ensure decisions are justified, documented, and the best value for the Agency. Contracting procedures generally include: defining requirements, evaluating prices and qualified providers, establishing a technical representative to oversee the contract, and maintaining and documenting an official contract file.



The following are examples of procedures not followed:

- For an employee benefit contract, we noted a difference in the FCA contract language and documentation. Instead of using standard Agency language, the agreements were written by the contractor. The competitive process was also not fully utilized. Although the contract file documented FCA personnel involvement and legal reviews, the Agency did not issue standard contract documentation and language, which is usually incorporated in the statement of work. The competitive process included several proposals through a broker and verbal requests, but did not have a consistent, comprehensive evaluation process. Ratings or scorings were not used even though different vendors and proposals were considered. Personnel also stated that comparisons were made with other financial regulators, but the fee structure was not part of the comparison. Overall, without a fully documented contract file and a competitive process showing evaluation of the options considered, it is difficult to know whether the company was the best value for the Agency.
- For a different employee benefit contract, the documentation showed inadvertent payment to the company, and competition used to select the vendor was not consistently documented. The Agency overpaid the company for services to be provided which resulted in confusion and inefficiencies when trying to recover the funds. Although not in the contract file, when we inquired concerning the extent to which the contract was competed, the Agency provided one other proposal it had considered. However, rating/scoring sheets documenting the evaluation of both companies were not in the contract file.

Both of the examples above also had contracts that needed to be ratified. Ratification refers to the approval of an unauthorized, nonbinding agreement. An unauthorized commitment occurs when the FCA representative lacks the authority to enter into the agreement. The Contracts Desk Manual states the following:

“An unauthorized commitment... shall be coordinated with the FCA Contracting Officer. Ratification by the FCA Contracting Officer shall be made only after proper expenditure authority has been obtained... The FCA should take positive action to preclude, to the maximum extent possible, the need for ratification of contracting actions.”

In one case, the vendor had not renewed its registration in the System for Award Management, where companies register to do business with the Federal government. So, the modification to award the option year could not be exercised. However, FCA was still receiving services from the company without a binding agreement. Contract staff were in contact with the vendor throughout the process and documenting that employee benefits would not be affected by the lack of renewal. In the other example, there was an oversight by the COR and contracting staff, so the option year was not exercised in a timely manner. This resulted again in receiving services from the company without a binding agreement.

We also identified other examples where procedures were not followed, including:

- For one contract we reviewed, the statement of work was prepared based on hourly rates. Subsequently, the contract was awarded based on fixed-price milestones, not hourly rates. The statement of work was not updated, and the COR and contracting staff stated this was an error.

The payment schedule for this contract also did not correspond to the invoiced amounts paid. The contractor was paid for partial completion of their first milestone deliverable, contrary to the schedule established in the contract.

- Another long-term contract did not identify invoicing details in the statement of work. The documentation did not define what payments would be based on or how frequent the payments would be made on the contract.
- Another contract had a modification completed after the period of performance had expired. The modification was executed to pay an outstanding invoice. Agency officials stated this was based on agreement by both parties; however, this was not documented in the contract file.
- Another contract was inadvertently initiated, but later canceled. Personnel had to cancel the contract after it was initiated instead of exercising the option year. This was discovered after the contractor sent invoices that were declined for payment.

### *Contract Clauses*

As noted above, FCA is not subject to the FAR. However, FCA elects to include, by reference, certain applicable FAR clauses in certain contract documents. The following clauses are generally referenced:

<b>FAR Subpart</b>	<b>Title</b>
52.202-1	Definitions
52.203-3	Gratuities
52.203-5	Covenant Against Contingent Fees
52.203-7	Anti-Kickback Procedures
52.203-13	Contractor Code of Business Ethics and Conduct
52.204-9	Personal Identity Verification of Contractor Personnel
52.222-55	Minimum Wages Under Executive Order 13658
52.239-1	Privacy or Security Safeguards
52.242-15	Stop-Work Order
52.243-1	Changes – Fixed Price
52.243-3	Changes – Time and Materials or Labor-Hours
52.246-6	Inspection of Services
52.246-25	Limitation of Liability - Services

These clauses cover important requirements and serve as part of the legal, binding agreements between FCA and those providing goods and services to the Agency. FCA's PPM 812, *Contracting Procurement Policy*, states FCA General Provisions shall be incorporated into all contracts and that OAS will maintain a database of standard clauses to be used when applicable.

We reviewed contract file documentation that included standard contract clauses. We found the contract clauses included in the documentation were outdated, incomplete, and/or missing. Of our sampled contracts, 13 contract files contained documentation with the standard clauses. However, all 13 contained partially outdated FAR references, dates, and/or titles.

In addition, because several of the contracts did not have statements of work issued to the individuals/companies/agencies doing business with FCA, the standard contract clauses were not part of the contract. As one example, a large employee benefit contract was implemented with no statement of work or standard clauses. Although the Agency entered into a contract that included the business's contract information, FCA's standard clauses were not included. In general, FCA includes the standard clauses as additional protection to the Agency.

### *Contractor Onboarding*

FCA's contractor onboarding process needs improvement. There was an inconsistent approach to how this process was initiated, documented, and updated. The Contracts Desk Manual states the Contract Specialist is responsible for notifying the Information Technology (IT) Security Specialist when a contracting/procurement action requires the hiring of a contractor/consultant who will require access to FCA's IT systems.

Confidentiality agreements are another component of contractor onboarding. Contracting personnel stated confidentiality agreements should always be signed and in the contract file, if applicable. However, the Agency did not have a clear process for determining when confidentiality agreements are needed and ensuring appropriate individuals signed an agreement.

The Agency developed and began using a contractor onboarding form in 2015. The form covers the contractor's work schedule at FCA facilities, accesses to sensitive data and systems, and use of Agency equipment. An email was issued to all CORs to use the form. We found that the forms were not always completed nor placed in contract files. There appeared to be confusion on when the form was needed and who makes that determination. The process for reviewing the form and determining required next steps was not always documented. The contracting staff is working with the Office of Information Technology to try and automate the process but has had difficulties in implementation.

### *Documentation in Contract Files*

We noted various examples in our sample where documentation could be improved. We reviewed 29 contract files to ensure documentation was sufficient to address:

- justification for goods or services to be purchased;
- specifications, requirements, and milestones;
- competition or basis for selection;

- conflicts of interest; and
- oversight.

When a COR is designated by the Contracting Officer, a copy of the COR designation letter is placed in the contract file. 8 of the 29 contract files we sampled were missing the COR designation letter. In many cases, even though the form was missing from the file, the Contract File Content Checklist, which lists standard documentation, stated a letter was completed and included. We also identified conflicting information in internal policies and procedures. PPM 840 states a COR should be designated when a contract or purchase order is expected to exceed \$100,000. However, PPM 812 and the Contracts Desk Manual state a COR will be appointed for all contracts and procurements over \$5,000. There were also inconsistencies on whether interagency agreements needed a COR designation.

Another contract file in our sample did not contain the interagency agreement or statement of work. As a direct contrast, another interagency agreement in our sample, with the same government agency, included both documents. Without these key documents, we could not review deliverables and milestones. As of March 2017, contracting officials stated a copy of the interagency agreement had been requested.

We identified errors in the memoranda completed by the Contracting Specialist in our sample. In several contract files, the Contracting Specialist wrote a memorandum to file summarizing the steps taken for a procurement action. This memorandum was useful in identifying:

- the type of source selection,
- modifications to the request for proposals,
- listing of proposals received,
- evaluation conclusions, and
- selection made.

In two examples, some of the final quotes received did not match the quotes stated in the Contracting Specialist's memoranda. In both examples, the errors would not have altered the selection since the company ultimately selected was documented as the best value to the Agency.

On another contract in our sample, we observed an increase in the quantity for goods purchased from the original requisition, but the requisition was not revised justifying and approving the increase in quantity. Documentation of the increased quantity was limited to an email from the COR to the Contracting Specialist and approving official on the requisition.

As part of our review, we followed up with CORs to determine whether documentation existed that was not placed in the contract file. We noted various examples such as proposals, evaluations of proposals, statements of work, and conflict of interest statements that were provided by the COR or Contracting Specialist, but not included in the official contract file.

## *Contributing Elements*

Several causes contributed to the issues identified for improvement. FCA maintained paper contract files, and contract documents were mostly generated manually. Program offices generate requisitions and initiate modifications, based on Agency needs. FCA's contracting staff documents contracting actions and maintains official contract files. Currently, contracting staff may send and receive documentation electronically from CORs or the contractor, and these documents must be printed and manually placed in the contract file. In addition, processes such as exercising option years and contractor onboarding rely on the COR to track due dates and initiate paper forms, which contributed to some of the issues identified in our review. Electronic, automated systems will streamline the contracting process and improve consistency, completeness, and timeliness.

FCA currently uses a centralized document management and storage system. A similar approach could be used for contract files. With this type of system, both contracting staff and CORs could access and store documentation in one location. This will decrease duplication and ensure documentation is maintained efficiently by eliminating unnecessary steps in the current process.

Other factors also affected documentation inconsistencies. FCA developed a Contract File Content Checklist that lists standard documentation. The checklist was designed to be completed multiple times as the contract is modified, and as noted previously, checklists were not always accurate. Beyond the checklist, FCA does not prescribe documentation requirements for contract files, but officials stated the contract file should include documentation from pre-award through award. CORs take required training on their roles and responsibilities; however, there are no reference materials to help ensure records are complete and consistent.

For contract clauses, FCA's PPM 812, *Contracting Procurement Policy*, states that the Agency would maintain a database of standard FCA clauses to be used when applicable. Neither a database nor other informational repository was currently maintained to ensure standard clauses were correct and complete.

## **Insufficient Processes**

Overall, we identified several contracting processes that the Agency has not consistently implemented or that need improvement, including: contract closeout, conflict of interest declarations, accessibility reviews, legal reviews, and budget reporting.

### *Closeout Process*

The Agency does not have a consistent closeout process. FCA's Contracts Desk Manual states that the COR is responsible for initiating administrative closeout of a contract and ensuring closeout procedures are complete. COR closeout procedures include ensuring physical property is returned, the contractor's final invoice was submitted, and contract funds are reviewed and excess funds de-obligated. Once these actions are completed, Contracting staff are then responsible for documenting completion of the requirements and closing out the contract file. The Agency did not follow this process.

Each quarter of the fiscal year, the Office of the Chief Financial Officer (OCFO) staff sends a listing of open purchase orders/contracts to each COR and asks them to identify funds to be de-obligated. OCFO staff sends a de-obligation report to contracting staff identifying excess funds, if applicable. Beyond the

de-obligation reporting process through OCFO staff, other aspects of closeout were not documented and included in contract files. The Contract File Content Checklist addressed closeout; however, this section was incomplete for many of the contracts reviewed in our sample.

### *Conflict of Interest*

Conflict of interest declarations could be improved. Agency procedures state that FCA employees shall not take part in any action that may result in or create the appearance of a loss of complete independence and impartiality. Furthermore, employees purchasing goods and services shall conduct themselves so as to avoid even the appearance of any impropriety or conflict of interest.

As a result of a previous OIG inspection, a process of signing a conflict of interest statement was put in place for staff involved in selections for large IT acquisitions. FCA's *Guidance for Project Management of Large Information Technology Projects* defines "large" IT acquisitions as more than \$500,000. The agency should consider lowering the threshold for requiring conflict of interest statements for all procurements and staff involved in the procurement process.

Conflicts of interest are especially important given the Agency's unique regulatory role. FCA contracts do not contain a specific provision requiring contractors to report any conflicts of interest that may exist or arise during the period of performance. Actual and potential conflicts of interest are not limited to specific types of acquisitions and must be evaluated continuously during the contracting process.

### *Accessibility Reviews*

FCA developed guidance and created a standard form to assist offices performing Section 508 reviews to ensure compliance, but inconsistently documented Section 508 compliance reviews.

FCA's *Section 508 Guidance* states the following:

"Section 508 refers to a statutory section in the Rehabilitation Act of 1973 (found at 29 U.S.C. 794d), whose primary purpose is to provide access to, and use of, Federal executive agencies' electronic and information technology (EIT<sup>1</sup>) by individuals with disabilities, including both federal employees and the general public. Accessible technology is the type that can be accessed or operated in a variety of ways and does not rely on a single sense or ability of the user."

In most cases, information technology products were reviewed for compliance with Section 508. If a product is not compliant or partially compliant, Section 508 requires agencies to provide reasonable accommodations to EIT for employees with disabilities. However, Section 508 compliance review documentation was inconsistent, incomplete, or missing accommodations or Chief Information Officer (CIO) approval. In two examples, a compliance review was performed, but not signed by the Section 508 Coordinator. In another example, a product was determined to be partially compliant, but did not indicate whether accommodations were made or approved by the CIO. Lastly, a different partially compliant product lacked a Section 508 compliance review form. However, a Voluntary Product

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<sup>1</sup> EIT is defined as "Any equipment or interconnected system or subsystem of equipment used in the creation, conversion, or duplication of data or information. The term EIT includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines." Typically, it includes personal computers and their peripherals, software, and the IT infrastructure.

Accessibility Template representing the vendor's assessment of accessibility features was obtained at the time of procurement showing the product was partially compliant. A form was later provided with the CIO's approval that was dated after the procurement stating, "data visualization tools are typically not Section 508 compliant". The CIO provided a justification that purchasing a fully compliant product would result in an undue burden to the Agency.

### *Legal Review*

FCA's current legal review process needs to be updated. Agency policy requires solicitation and contract documents (exceeding a minimum dollar threshold) to be reviewed by the Office of General Counsel for legal sufficiency. The policy states a memorandum will be prepared and provided to contracting personnel concerning legal sufficiency. However, this was not always documented in the contract files in our sample.

Previously, the Agency had one Contracting Officer who is also an attorney. Because the Contracting Officer reviews and signs contract documentation, officials stated this constituted a legal sufficiency review. The Agency designated another Contracting Officer in February 2016, who is not an attorney, so the legal sufficiency review process should be revised.

### *Budget Reporting*

FCA provided procurement data for the fiscal years in our scope. In reviewing this data to select our sample, we identified errors in the consulting services and single source table included in the Agency's fiscal year 2017 proposed budget and performance plan. Contracting staff stated the information in that listing was generated by manually reviewing paper contract files, and this process would be revised immediately to prevent errors in information submitted in the future.

### *Contributing Factors*

There were several contributing factors to the insufficient processes identified. Contracting policies and procedures were outdated. Various references need to be updated to reflect current offices, individuals, and responsibilities. There is an inconsistency in PPM 840, regarding the threshold for appointing CORs. In addition, established policies and procedures did not fully address contract closeout, legal sufficiency reviews, contractor onboarding, conflict of interest declarations, and Section 508 compliance.

For the budgeting process, the Agency stated its new process going forward would use the procurement system where contract and purchase order information is maintained. In addition, officials stated they would obtain a list from the OCFO to identify all contracts awarded using the budget code for consulting services. This process has not been documented.

## **Contracting Importance and Significance**

Across the government, contracting has consistently been identified as a high risk area. At FCA, contractor goods and services fill critical needs. Controls, oversight, and complete contracts mitigate important risks to the Agency. In cases of disputes, errors, or noncompliance with requirements, contract files and supporting documentation are critical in protecting the Agency's interests. Contract

documentation also provides an important historical record that may be referenced during future procurement activities.

The contracting process and corresponding procedures support best value selection. Best value selections help to ensure resources are available for the Agency's highest priority needs. Because contracting decisions are based on many, unique factors, it is important for justifications and evaluations to be documented and maintained. Automating and standardizing required contracting documentation provides greater assurance that a consistent effective process is applied across the Agency.

Knowledgeable personnel and multiple levels of review contribute to the integrity of the contracting process. Because FCA is not subject to the FAR, policies and procedures prescribe essential standards and principles for contracting. As personnel changes occur over time, FCA requirements must continue to provide a framework for efficient, effective contracting activities.

### **Agreed-Upon Actions 1-7**

In order to improve contract administration, OAS agreed to:

1. Develop a plan with milestones to ensure contract file documentation is complete. Where feasible, OAS will include automation options.
2. Provide all FCA CORs with a handbook or other educational/reference materials on documentation requirements, invoice reviews, and overall responsibilities.
3. Revise the contract file content checklist to include a comprehensive checklist of steps from solicitation to closeout in contract files.
4. Coordinate with the Office of General Counsel to develop contract language requiring contractors to identify potential conflicts of interest throughout the performance of the contract, especially in light of FCA's regulatory mission.
5. Revise the contractor onboarding process to ensure required forms are obtained and placed in the contract files.
6. Update PPM 812, PPM 840, Office Directives, and the Contracts Desk Manual, to include the following topics:
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7. Develop a listing of standard contract clauses for FCA procurements and implement a policy to ensure this repository is up to date.

OAS agreed with our report and provided tasks to be completed. OAS stated it would develop a contract documentation milestone plan, handbook, and revised checklist. OAS also plans to address potential conflicts of interest in contract language, revise the contractor onboarding process, revise policies and procedures, and develop a listing of standard contract clauses.

## OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this audit was to determine whether FCA's contracting process is effectively administered. We conducted the audit at FCA's Headquarters in McLean, VA from December 2016 through May 2017. We limited our scope to contracts and agreements contracts awarded from October 1, 2014 through September 30, 2016.

We took the following steps to accomplish the objective:

- Identified and reviewed applicable Federal laws, regulations, and guidance related to the objective.
- Reviewed prior audits and inspections related to the audit objective.
- Reviewed Agency policies and procedures related to the procurement process.
- Conducted interviews with the Director of the Office of Agency Services, Supervisory Administrative Operations Specialist and Contracting Officer, Contracting Officer, Contracting Specialist, and others with responsibility for contract administration and oversight.
- Identified significant internal control processes and determined if they are operating effectively and efficiently.
- Assess the risk of fraud and illegal acts occurring within the context of the objective.
- Reviewed contracting staff qualifications and trainings.
- Reviewed contracting activities performed from October 1, 2014 through September 30, 2016. Judgmentally sampled 29 contract files based on award type, amount, vendor, and award descriptions. Micropurchase awards were excluded from our sample. The sample was judgmental and cannot be projected over the entire population.
- Reviewed sampled contract files for contract administration, justifications, and documentation.
- Evaluated contract clauses for completeness and accuracy.

This audit was performed in accordance with the 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 objective. We assessed internal controls and compliance with laws and regulations to the extent necessary to satisfy the objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We assessed the computer-processed data relevant to our audit objective and determined that the data was sufficiently reliable. We assessed the risk of fraud related to our audit objectives in the course of evaluating audit evidence. Overall, we believe the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

## ACRONYMS

CIO	Chief Information Officer
COR	Contracting Officer's Representative
EIT	Electronic and Information Technology
FAR	Federal Acquisition Regulation
FCA	Farm Credit Administration
IT	Information Technology
OAS	Office of Agency Services
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
PPM	Policies and Procedures Manual

# R E P O R T

Fraud | Waste | Abuse | Mismanagement



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