



U.S. Securities and Exchange Commission

Office of Inspector General

Office of Audits

Audit of the Office of Acquisitions' Procurement and Contract Management Functions





OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

MEMORANDUM

September 25, 2009

To: Sharon Sheehan, Associate Executive Director, Office of Administrative Services (OAS)

From: H. David Kotz, Inspector General, Office of Inspector General (OIG) 

Subject: *Audit of the Office of Acquisitions' Procurement and Contract Management Functions, Report No. 471*

This memorandum transmits the U.S. Securities and Exchange Commission, OIG's final report detailing the results of our audit of the Office of Administrative Services' (OAS) Office of Acquisitions' procurement and contract management functions. The review was conducted by the OIG as part of our continuous efforts to assess management of the Commission's programs and operations and was based on our audit plan.

OAS concurred with the report's 10 recommendations. Based on the written comments that were received and our assessment of the comments, we revised the report accordingly.

Within the next 45 days, please provide OIG with a written corrective action plan that is designed to address the agreed upon recommendations. The corrective action plan should include information such as the responsible official/point of contact, time frames for completing the required actions, milestone dates identifying how you will address the recommendations cited in this report, etc.

Should you have any questions regarding this report, please do not hesitate to contact me. We appreciate the courtesy and cooperation that you and your staff extended to our contractor.

Attachment

cc: Kayla J. Gillan, Deputy Chief of Staff, Office of the Chairman
Diego Ruiz, Executive Director, Office of the Executive Director
Norbert Doyle, Jr., Assistant Director, Office of Administrative Services,
Office of Acquisitions

Audit of the Office of Acquisitions' Procurement and Contract Management Functions

Executive Summary

Regis & Associates, PC, under contract with the U.S. Securities and Exchange Commission (SEC or Commission), Office of Inspector General (OIG), performed an audit of the Commission's Office of Administrative Services (OAS), Office of Acquisitions' (OA) procurement and contract management processes and functions, covering FY 2006 to FY 2008. This report provides the results of our audit. The audit identified significant risk areas, which if not addressed, could hinder OA from having an effective and efficient procurement and contracting operation. Specifically, the audit found that OAS and OA:

- 1) Do not maintain accurate records and data on their procurement and contracting activities;
- 2) Report inaccurate data in the Federal Procurement Data System;
- 3) Do not adequately oversee and monitor Regional Offices' contract activities and training of personnel;
- 4) Do not have an adequate migration plan for the new automated procurement system, PRISM;
- 5) Are not adequately supporting payments on time-and-materials and labor-hour contracts; and
- 6) Have not been conducting contract close-out procedures in compliance with SEC and FAR regulations.

These deficiencies resulted from: 1) The absence of comprehensive data that is needed to manage operations and report on performance; 2) Inconsistent operational processes; 3) Performance of contractual functions by inadequately trained personnel at the Regional Offices; 4) Noncompliance with FAR and SEC procurement and contracting policies; and 5) The lack of adequate policies and procedures governing the management of OA's procurement and contracting function.

OAS and OA have proactively taken steps and developed plans to address some of the noncompliance issues and deficiencies we identified during our audit.

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Background and Objectives

Background

The Office of Administrative Services (OAS), Office of Acquisitions (OA) is responsible for the U.S. Securities and Exchange Commission (SEC or Commission) procurement and contract activities and processes, which are governed by the Federal Acquisition Regulation (FAR). OA's purview includes oversight over the receipt of requisitions from customers, identifying appropriate vendors, making reasonable pricing determinations, and awarding and administering contracts.

OA's procurement and contracting function is conducted manually, and the office is in the process of fully automating this function. The office has three contracting branches that are overseen by three separate contracting officers. The contracting officers specialize in three different areas as follows:

- (1) OAS, Office of Human Resources (OHR) and select Regional Office contracts;
- (2) Information technology contracts; and
- (3) The Division of Enforcement (Enforcement), including the Regional Offices, and all other headquarters Offices and Divisions contracts.

The contracting officers' functions are independent of each other. The manner in which the contracting officers manually compile and track contracting data for the areas that they oversee differs, and their contract data are not maintained in a single integrated file. As a result, OA is unable to identify the universe of all OA contracts and their corresponding contract values.

Requests for goods and services are initiated when a requesting office submits a requisition to OA. Team leaders from the contracting branches review the requisitions for content and complexity and subsequently, assign the requisitions to the appropriate contract specialist. The contract specialist processes requisitions, solicitations and contracts that are awarded by the contracting officers. OA also uses support contractors to conduct its functions. Goods and services are procured through competitive and non-competitive orders and contracts, purchase cards, and via interagency agreements. OA uses the General Services Administration Contracts and Schedules, and the Federal Business Opportunities website to compete its

contracts. OA also has a newly formed Policy, Oversight, and Acquisition Program branch that is responsible for researching, reviewing and disseminating procurement and contracting policies and procedures.

OAS and OA have had a high turnover of management personnel in the past two years. Current management primarily consists of personnel who were hired within the past two years. All OA branch chiefs, Heads of the Contracting Activity, and the Senior Procurement Executive are certified at the FAC-C level III, or Department of Defense equivalent. OAS and OA management have indicated to us that they are focused on making the necessary organizational changes that are needed to ensure that their personnel are complying with the FAR and SEC regulations.

In August 2008, the Office of Inspector General (OIG) contracted Regis & Associates, PC (Regis), an Independent Public Accountant, to perform a preliminary survey of OA's procurement and contract management functions. The risks identified in the preliminary survey stemmed from OA's lack of comprehensive operational procedures that were needed to manage its procurement and acquisition operations, address inconsistent operational processes, and properly train all personnel that are involved in the procurement function. The preliminary survey also found that the procurement and contracting functions within OA were driven by a manual system in which the three contracting officers maintained different Microsoft Word and Excel spreadsheets to document their respective procurement and contracting workload. Based on the issues identified in the preliminary survey, the OIG contracted with Regis to conduct this follow-up audit of the Commission's procurement and contracting processes and functions.

Overview of Regional Offices' Procurement Activities

The Commission's Regional Offices acquire goods and services from outside vendors to support their operations and to help carry out the SEC's mission. This is accomplished either through purchases that are made by authorized government purchase cardholders or through the issuance of legally binding contractual documents. OAS has delegated select senior personnel officials (i.e., Regional Directors, select Associate Regional Directors, and select legal counsels) in the Regional Offices with the authority to enter into, and modify contracts with vendors on behalf of the Commission. These officials have been delegated the express written contracting authority in the form of warrants up to \$100,000, to procure services limited to expert witnesses, foreign counsel depositions, and transcript services for Enforcement. In December 2008, warrants granted to select personnel in the Regional Offices were revised to include litigation support of up to \$100,000. All other

Regional Office requirements are procured by OA personnel. The Regional Offices also have the authority to award and administer purchases that are under the \$3,000 micro-purchase threshold through its designated government purchase cardholders.

To better understand the Regional Offices' procurement functions, we developed a questionnaire (survey) that was designed to determine the level of involvement of select personnel in the SEC's Regional Offices who conduct procurement and contracting activities. The purpose of the survey was to identify information regarding:

- Personnel who performed the procurement and contracting functions;
- Personnel who have warrant authority and/or assist with procurement and contracting matters;
- The volume of procurements in total number and dollar amounts;
- Training that is received by personnel who perform procurement functions;
- OA oversight of the Regional Office's procurement activities; and
- Challenges encountered with procurement and contracting matters.

The survey was issued to the SEC's Regional Offices on December 19, 2008 and responses were received through January 19, 2009. The survey was completed by personnel who either had oversight of the procurement and contracting function, or who supervised personnel who performed these functions such as Regional Directors, Associate Regional Directors, administrative officers, supervisory program support specialists, and others who were involved in procurement activities.

In addition to issuing the survey, we interviewed personnel from the Regional Offices regarding their compliance with the FAR and SEC regulations and regarding the performance of their procurement and contracting (acquisition) duties. The survey revealed significant risk areas which, if not addressed, could hinder OA's overall procurement and contracting function.

Objectives

This audit was conducted in accordance with the SEC/OIG's annual audit plan, and its objectives were to:

- 1) Identify the population of contracts and other procurement vehicles administered by OAS during fiscal year (FY) 2007 and FY 2008;

- 2) Determine if cost-reimbursable type contracts have been properly closed in accordance with the FAR and if the costs were allowable, allocable, and reasonable; and
- 3) Determine if procurement activities in the Regional Offices are effectively managed and whether individuals performing procurement activities are properly trained in accordance with Office of Management and Budget requirements.

Findings and Recommendations

Finding 1: OA Does Not Maintain Accurate Records and Data on its Procurement and Contracting Activities

We requested a list of open and closed contracts from OA and the Office of Financial Management (OFM) to verify the universe of all SEC contracts.¹ OA provided us with a consolidated spreadsheet which consisted of its open contracts that were developed based on data maintained and tracked by three different contracting officers/branch chiefs. We found that these three contracting officers maintained the contracts under their purview differently. Our review of the consolidated spreadsheet further found that 14 of 50 data fields on the spreadsheet were blank. The contracting officers' spreadsheets are the main instruments that OA uses to track its procurement and contracting data for the SEC's Headquarters Offices/Divisions and select Regional Offices. Yet, OA does not have policies or standard operating procedures to identify the acquisition data that should be tracked and how its contracting officers should maintain contracting data.

Additionally, we found that OA's consolidated spreadsheet could not be reconciled with OFM's records. We compared the contract values from the consolidated spreadsheet to OFM's active contract listings and found approximately \$13,050,843² in contracts that were not identified on the consolidated spreadsheet. OA's open contracts only consisted of blanket purchase agreements, interagency agreements, indefinite delivery contracts, and purchase orders. OA did not have a consolidated record of active, pending, completed, modified, or cancelled contracts. We further found that some contracts that OA classified as closed were listed as open on OFM's contract list. Thus, we were unable to accurately identify the universe of the SEC's contracts and the corresponding contract values. We note that OA was also unable to accurately identify this universe.

Furthermore, we found that OA was unable to provide requested data on contracting activities that originated from the Regional Offices. We determined that OA does not appropriately monitor all Regional Office

¹ When OA discontinued using the Strategic Acquisition Manager (SAM), which was OA's automated procurement system (APS) in March 2008, its contracting officers reverted back to maintaining their respective procurement and contracting (acquisition) data manually.

² These values were estimated from OFM's payment records of current contract activities.

contracting activities. We further discovered that the Regional Offices were not required to submit monthly, quarterly, or annual reports on contract activities to OA personnel, nor do they remit files to OA on contracts that have been executed.

Pursuant to the OMB Circular A-123, *Management's Responsibility for Internal Control*:

Management has a fundamental responsibility to develop and maintain effective internal control. The proper stewardship of Federal resources is a fundamental responsibility of agency managers and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used consistent with agency mission, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement.

. . . Internal Control -- organization, policies, and procedures -- are tools to help program and financial managers achieve results and safeguard the integrity of their programs.

Implicit in these requirements are the need to maintain records on critical contract data. The aforementioned failures to maintain accurate records and data resulted from OA not having established sufficient processes and monitoring methods to ensure compliance with all established federal requirements and the Commission's acquisition policies and procedures.

OA used Strategic Acquisition Manager (SAM) as its pilot automated procurement system (APS) from May 2007 to March 2008 to track its acquisition activities. OA later cancelled SAM as a result of the system's failure to meet their needs, and the vendor's failure to provide trained system administrators who could fix the system's problems. Also, OA encountered problems with interfacing SAM to Momentum, the Commission's financial accounting system. Momentum tracks the agency's budget, obligations, expenditures and balances. When OA's use of SAM was officially discontinued, the office did not establish record-keeping procedures or standard operating procedures for the manual oversight of its procurement and contracting data. This has contributed to OA's inability to identify the universe of the contracts it oversees. OA's lack of record-keeping procedures and its failure to establish a comprehensive manual audit trail and standardized process to track and monitor procurement and contracting activities has resulted in incomplete and inaccurate contracting records. The

failure to accurately maintain records on all contract processes increases the risk of inaccurate reporting to internal and external stakeholders such as the SEC Chairman, Congress, and OMB.

Recommendation 1:

The Office of Acquisitions should develop record-keeping standard operating procedures to track procurement and contracting (acquisition) activities.

Recommendation 2:

The Office of Acquisitions should develop a periodic internal review process to ensure that the newly developed recordkeeping standards are followed.

Recommendation 3:

The Office of Acquisitions should determine the universe of active and open contracts and the corresponding value of the contracts. Once this is accomplished, the Office of Acquisitions should reconcile the universe of active and open contracts with the Office of Financial Management's active contract list.

Finding 2: Contracting Data Reported in the Federal Procurement Data System is not Accurate

The Office of Federal Procurement Policy (OFPP) Act of 1974 required the Administrator of OFPP within OMB to establish a system for collecting and developing information about federal procurement contracts. Accordingly, the Federal Procurement Data System (FPDS) was implemented in 1978. The Congress, Government Accountability Office (GAO), executive branch agencies and the public rely on FPDS data for information on agencies' contracting actions, government-wide procurement trends, and for the achievement of small business goals. We requested and obtained a list of contract activities that OA reported in the FPDS during FY's 2007 to 2008, and we further requested and received OFM's procurement activities covering the same period of time.

Pursuant to FAR Subpart 4.606(a), *Actions Required to be Reported to FPDS*:³

. . . . at a minimum, agencies must report contract actions over the micro-purchase threshold, regardless of the solicitation process used, and agencies must report any modification to these contract actions that change previously reported contract action data, regardless of dollar value.

We determined that the data OA reported in the FPDS was incomplete and inaccurate when it was compared to OFM's procurement and contracting activities, because the data reported to FPDS did not include all of the SEC's procurement activities, such as modifications. In addition, the contracting activities OA reported in the FPDS for procurement contracts included activities for Headquarters, but not for the Regional Offices. These occurred because OA had not established sufficient processes and procedures to ensure its compliance with procurement and contracting data reporting requirements. Based on the survey issued to select personnel in the Regional Office, and the interviews we conducted, we found that a significant number of personnel did not understand all their job functions and did not know how to use the FPDS. Also, based on the survey results and interviews, some SEC personnel indicated that they did not have the required training and understanding to input data into the FPDS.

OA's failure to maintain concise contract records increases its risk of inaccurate reporting to the SEC Chairman, Congress and OMB. When accurate data and other needed contract information are not properly maintained, there is also an increased risk of noncompliance with governing regulations and not properly accounting for federal resources.

Recommendation 4:

The Office of Administrative Services should develop an internal process to ensure procurement data is accurately and fully reported in the Federal Procurement Data System for both the Commission's Headquarters Offices and Divisions and the Regional Offices.

³ FAR Subpart 4.606(a), *Actions Required to be Reported to FPDS*.

Finding 3: OA Does Not Adequately Oversee and Monitor Regional Offices' Contract Activities and Training of Personnel

OA's acquisition workforce is comprised of personnel in the GS-1102 series, Contracting Officers, Contracting Officer Technical Representatives (COTR), and Project/Program Managers. Pursuant to Securities and Exchange Commission Regulation (SECR) 10-15, *Contract Administration Positions*, and Office of Federal Procurement Policy, all designated personnel are required to take federal acquisition or SEC acquisition training to obtain and retain their procurement and contract oversight responsibilities.⁴ However, we found that personnel in the Regional Offices who are assigned to execute and manage procurement and contract activities and the Point-of-Contact personnel who monitor procurement activities, were not required, and for the most part, have not taken any federal acquisition or SEC acquisition training courses. We also determined that OA did not:

- Maintain data on procurement and contracting activities that were executed by the Regional Offices;
- Oversee and monitor the Regional Offices procurement and contracting activities;
- Ensure the competency of employees performing contracting and procurement activities at the Regional Offices; and
- Ensure that Regional Office procurement data was entered into FPDS.

The OIG survey included questions that pertained to the level of training that has been provided to personnel who participate in procurement and contracting activities. The results of the survey showed that Regional officials who were delegated key aspects of contract administration lacked the adequate training and experience needed to successfully perform their contracting duties.

Furthermore, we found that OA does not adequately monitor the Regional Offices. The OIG survey found that OA granted 16 personnel in the Regional Offices (Regional Office Directors and select Associate Regional Directors and legal counsels) limited warrant authority up to \$100,000, to enter into contracts for the Enforcement. However, OA did not establish a review or monitoring process for which its contracting officers would have oversight or knowledge of the contracts that these select Regional Office personnel

⁴ OA designates Inspection and Acceptance Officials for the SEC's Offices/Divisions that do not have COTRs.

execute. Also, these personnel were not required to submit monthly, quarterly, or even annual reports on contract activities to OA. Further, OA did not require Regional Offices to remit files to OAS on the contracts that were executed. Moreover, we found that some Regional Office Directors and Associate Regional Directors were unfamiliar with and not in compliance with applicable federal and SEC regulations. In discussions with these individuals, we learned that they appear to follow a “whatever it takes to get the job done” approach, yet, some did not fully understand and have not implemented all the FAR regulation requirements.

We conducted follow-up interviews with personnel from six Regional Offices, based on their responses to the OIG survey. The Regional Office personnel expressed the following issues and concerns regarding their procurement activities:

- Contracting officers from OA should visit the Regional Offices to gain an understanding of “what goes on here.” This would give the contracting officers a better understanding of the Regional Offices’ needs.
- The SEC procurement and FAR regulations language is too difficult for them to understand.
- Personnel performing contracting and procurement functions wore “many hats” and were not dedicated primarily to contracting functions.
- Training in the procurement functions was needed for personnel who issue various types of contracts, and those who use the purchase card.

Based on the results of interviews with the personnel involved in procurement activities at the Regional Offices, we found that many personnel received little or no formal procurement or contracting training related to their procurement responsibilities, other than a three-day Introductory Contracting course that OA implemented in May 2007.

We also found that OIG Report No. 430, *Contract Ratifications*, issued September 2007, included findings and recommendations that were related to procurement activities at the SEC’s Regional Offices that remained unresolved. The findings included a recommendation that the Commission implement additional management controls to help preclude unauthorized commitments, update policies such as SECR 10-2, *Contracting Authorities and Appointments*, and put operating procedures in-place to help ensure compliance with issued policy. This OIG report also found that Regional Office staff with contracting authority and the administrative staff, who prepare procurement actions, did not possess the required skills to perform their procurement responsibilities successfully.

According to the SECR 10-2, *SEC Contracting Authorities and Appointments*:

The Senior Procurement Executive (SPE) shall establish acquisition policy; monitor the overall effectiveness and efficiency of the contracting functions; and establish controls to assure compliance with laws, regulations, and procedures. The duties of the SPE are described in FAR 2.101. This function is delegated to the Associate Executive Director, OAS.

Pursuant to Revised OMB Circular A-123: *Management's Responsibility For Internal Control*, (December 2004), for Control Environments:

. . . . within the organizational structure, management must clearly: define areas of authority and responsibility; appropriately delegate the authority and responsibility throughout the agency; establish a suitable hierarchy for reporting; support appropriate human capital policies for hiring, training, evaluating, counseling, advancing, compensating and disciplining personnel; and uphold the need for personnel to possess and maintain the proper knowledge and skills to perform their assigned duties as well as understand the importance of maintaining effective internal control within the organization.

In addition, OFPP Letter 05-01, *Developing and Managing the Acquisition Workforce* (April 2005), provides that the agency's Chief Acquisition Officer or equivalent:

. . . . is responsible for assessing the current skills inventory of the workforce, identifying short- and long-term agency needs, and establishing plans, including recruitment and retention strategies, for obtaining the acquisition workforce resources and skills required to meet future agency mission needs.

The deficiencies described above occurred as a result of OA's inadequate internal controls over the procurement and contract management functions, and its lack of adequate monitoring for procurement and contracting activities at the Regional Offices. When the OIG discussed these concerns with OAS' management, OAS agreed that OA inadequately monitored and lacked control over the procurement and contracting activities at the Regional Offices. OAS explained that the lack of monitoring and control

occurred because of the decentralization that was implemented by the Commission to expedite the acquisition needs of the Regional Offices. OAS officials stated that they were willing to exert control and provide oversight responsibility over the Regional Offices' procurement and contracting functions in the future. We found that OAS officials have started to conduct Regional Office site visits to familiarize its staff with the Regional Offices' contract and procurement activities.

As discussed in detail in Finding 1 above, we also determined that OAS did not report all the SEC's procurement and contracting data in the FPDS and did not ensure that only Regional Office personnel who had the requisite acquisition and procurement training performed the Regional Office's contract administration functions. For example, Contracting Officer Technical Representatives, Project/Program Managers, and non-GS 1102 series regional personnel are assigned to execute and manage contract and procurement activities, but have not received proper acquisition training. Thus, these failures increase the risk of unauthorized and inappropriate execution of contracts which may violate governing regulations and guidance provided in the FAR and OMB circulars. OA's failure to adequately ensure that all Regional Office personnel who perform procurement and contracting duties receive required federal acquisition and procurement training and the lack of an automated contracting function adversely affects OAS' ability to accurately report data in the FPDS. This creates a potentially high-risk environment for fraud, abuse, and the mismanagement of funds.

Recommendation 5:

The Office of Administrative Services shall develop an acquisition training plan to ensure all Commission headquarters and Regional Offices/Divisions acquisition workforce performing procurement and contracting duties have requisite acquisition training that complies with the applicable Office of Federal Procurement Policy training requirements.

Recommendation 6:

The Office of Administrative Services must provide oversight over the Regional Offices' procurement activities to ensure the proper use of Contracting Officer Technical Representatives, Inspection and Acceptance Officials, Point-of-Contact personnel and other personnel that handle procurement and contracting activities; acquisition controls are in-place for all contracting and procurement activities; and appropriate data is reported in the Federal Procurement Data System.

Finding 4: The PRISM Data Migration Plan is Not Adequate

OA acquired its new automated procurement system (APS), called PRISM in September 2008. The PRISM contract was competitively awarded to Compusearch for \$2.5 million, to cover a one-year base period and subsequent years of annual maintenance. PRISM is a web-based, commercial-off-the-shelf procurement and contract management system that provides a streamlined end-to-end procurement cycle that integrates and tracks information from a single point of entry, from initiation of the requirement, through the solicitation and award, contract administration, to closeout and document archive. Previously, OA used two different APS's, the Procurement Desktop System (PDS) and SAM to track its acquisitions. OA discontinued its use of PDS in 1998 and acquired SAM in 2007. OA shutdown SAM in March 2008 for a variety of reasons, including poor performance and the inability of the vendor to provide qualified support staff who were needed to supplement the on-site help desk. To date, we found that OA has spent approximately \$5 million for PDS and SAM and neither system has fully met OA's needs. The costs from the cancellation of SAM alone amounted to nearly \$2.5 million.

To avoid repeating the mistakes that were made with the previous failed APS, OA management informed us that it had selected a vendor for its third APS with a proven success record within the federal government. OA officials further informed us that they wanted a product that could be administered and configured without extensive customization. OA officials have dedicated a functional expert to manage the PRISM system's business configuration design, implementation and testing.

PRISM's implementation consists of three phases and OA is currently in phase two. Phase one consisted of collecting paper contract files that are maintained in OA and matching the data with the information that is in Momentum, with a cross-check between the paper contract files and contract information that is in Momentum to ensure that information migrated into PRISM is accurate. Phase two consists of integrating OA, OHR, OIT, and the Regional Office's procurement and contracting data. This integration is expected to take place in January 2010. The third and final phase will be the integration of contract information for the Office of the Secretary, Enforcement, and all other Commission offices and divisions that were not integrated during phase two.

We found that the purpose of the implementation plan was to fully migrate OA's current acquisition activities into PRISM. After SAM was deactivated, however, OA's contracting officers reverted back to using a manual system to track and document its procurement and contracting activities. As discussed in Finding 1, OA has three contracting officers that maintained different Word and Excel spreadsheets to track and document the contracts for which they have oversight. Moreover, because of a lack of standard operating procedures, there is no uniformity in the manner in which the contracting officers maintained their acquisition information and no audit trail. Therefore, the data contained in SAM is not current, and only represents a partial snapshot of OA's procurement activity as of March 2008. Also, because only one of OA's branches and its customers used SAM, it does not contain all of OA's procurement actions. Thus, there is an incomplete volume of data that is available in SAM. Yet, the data is still valuable and must be utilized. Since OA does not have a centralized repository of acquisition and contracting information and the universe of contracts could not be determined in order for OA to identify all its open and closed contracts, the office must now manually reconstruct the data. In addition, OA should compare and reconcile the contracting officers' Word documents and Excel spreadsheets to the acquisition data in SAM, as well as to the procurement and contracting-related information that is in Momentum, before inputting the data into PRISM. Momentum consists of information that can be used to help validate the data in the contracting officer's Word and Excel spreadsheets, before OA fully migrates to PRISM.

We determined that OAS did not have an adequate plan to reconcile the universe of acquisition information to data that is maintained by the contracting officers, and the various systems such as SAM and Momentum.

We identified the following concerns regarding the migration of data from the contracting officer's Word and Excel spreadsheets to PRISM as follows:

- There was a lack of complete and accurate contract records (pending, current, and closed);
- There were no standard procedures or systematic methods for entering data into the various Word and Excel spreadsheets;
- Contracts that OA management represented as closed were classified by OFM as open and current in Momentum;
- OFM deobligated funds on contracts in Momentum for year-end financial statement preparation purposes without notice from OA that the contracts were completed and that additional excess funds were available for deobligation;

- There was no tracking system in-place to ensure the completeness of the contract population; and
- Contract files were not securely retained.

According to the FAR 4.801, *General*:⁵

(a) The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions.

(b) The documentation in the files 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.

When accurate contract data and other necessary contract information are not maintained, there is an increased risk of non-compliance with governing regulations, and improperly accounting for federal resources.

These weaknesses resulted due to OAS's failure to establish adequate internal controls to provide for the proper administration and oversight of its procurement and contract management functions. Specifically, OAS has not established sufficient policies, processes, and monitoring procedures to ensure compliance with established federal and Commission acquisition regulations and guidance.

Recommendation 7:

The Office of Acquisitions should revise and finalize its data migration plan and include key controls or steps that will ensure that all data migrated into PRISM is accurate and complete and has been reconciled or compared at a minimum to the contracting officer's Word and Excel spreadsheets, and to the data that is in SAM and Momentum.

⁵ FAR 4.801.

Finding 5: Payments on Time-and-Materials and Labor-Hour Contracts are not Adequately Supported

During our audit, we judgmentally selected 32 open contracts, 24 Firm-Fixed-Price contracts, 6 Time-and-Materials and 2 Labor-Hour contracts to determine whether payments on these contracts were properly supported. OA management provided us with the contractor personnel invoices and the corresponding timesheets for these contracts, as applicable. We also obtained the contractor's resumes and other necessary supporting documentation. We found that for all 8 Time-and-Materials and Labor-Hour contracts we reviewed, the contractors did not provide any timesheets to support their invoices, yet the COTRs assigned to the contracts approved the invoices for payment. In only three of the 6 Time-and-Materials contracts, did the contractors even provide a summary of hours that were charged to the contracts by its employees and consultants.

Pursuant to FAR 52.232-7, *Payments under Time-and-Materials and Labor-Hour Contracts*, "the government will pay the contractor as follows, upon the submission of vouchers approved by the contracting officer or the authorized representative:"⁶

- The hourly labor rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract.
- Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will **not** be paid to the extent the work is performed by employees that **do not** meet the qualifications specified in the contract, unless specifically authorized by the contracting officer.
- Subcontracts for supplies and incidental services, for which there is not a labor category specified in the contract, will be paid at cost.
- Intercompany labor rates shall not include profit for the transferring division (except for commercial items as described in FAR 16.601(c)(2) summarized above),

⁶ FAR 52.232-7, *Payments under Time-and-Materials and Labor-Hour Contracts*.

subsidiary or affiliate (the prime contractor, however, may include profit).

- Payment for materials is subject to the Allowable Cost and Payment clause. The contracting officer will determine allowable costs of materials in accordance with Subpart 31.2 of the FAR in effect on the date of the contract.

The FAR 52.232-7⁷ further states that the Contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by:

- Individual daily job timekeeping records;
- Records that verify the employees meet the qualifications for the labor categories specified in the contract; or
- Other substantiation approved by the contracting officer.

The conditions noted above were the result of COTRs, Inspection and Acceptance Officials, and the Point-of-Contacts not having a full understanding of the FAR requirements as related to the documentation that is needed to support payments for Time-and-Material and Labor-Hour contracts. These deficiencies also occurred because the FAR requirements for payment were not being adequately communicated to the COTRs on how to approve payment for these types of contracts. We determined that OA did not comply with the FAR requirement to maintain adequate documentation to support its payments for Time-and-Materials and Labor-Hour contracts. This increases its risk that improper payments may be made to contractors.

Recommendation 8:

The Office of Acquisitions should re-educate the acquisition workforce on the Federal Acquisition Regulation requirements related to Time-and-Materials and Labor-Hour contracts by specifically addressing proper documentation to support invoice payments. This could be accomplished by issuing a Securities and Exchange Commission Administrative Notice.

⁷ Ibid.

Finding 6: Contract Close-out Procedures Were not Conducted in Compliance with SEC and FAR Regulations

OA has only officially started to close-out its completed (closed) contracts in the last two years. Contract close-out should be a continual effort to ensure that contract files are administered in accordance with the FAR. Contract close-out is a critical process in the life of the contract. OAS is required by FAR 4.804-5, *Procedures for Closing Out Contract Files*;⁸ and FAR 4.805, *Storage, Handling, And Disposal of Contract Files*⁹ to establish procedures for closing, storing, and disposing of contracts. During our audit, we noted that the close-out procedures OA used were not in compliance with these FAR provisions.

We judgmentally selected 25 closed contracts from a closed contract list that OA provided to us covering FYs 2006 to 2007. We reviewed the closed contract files to determine whether they contained the documentation that was required by the FAR, such as the contract, property clearance, interim or disallowed costs settlement, completed price revision, subcontractors' payments evidence, finalization of indirect cost rates, completed contract audit evidence, contractors' closing statements, contractors' final invoices, and evidence that contract funds were reviewed and excess funds were deobligated. In addition, we examined correspondence between the contracting officers and other parties to determine whether modifications to the contracts or other actions were properly executed and supported.

None of the 25 contracts that we reviewed complied with the FAR provisions as described above. Some of the issues we identified during our review of the closed contract files were as follows:

- (a) OA personnel were unable to locate all the requested closed contract files;
- (b) E-mails or documentation to evidence that contracts had been closed were not be kept in the active contract files;
- (c) Close-out dates, per OA's close-out logs, were not completed;
- (d) There was no evidence of contractor closing statements in the files;
- (e) Files were missing copies of Form SECR 2414, *Contract Completion Statement*.

⁸ FAR 4.804-5, *Procedures for Closing Out Contract Files*.

⁹ FAR 4.805, *Storage, Handling, and Disposal of Contract Files*.

Also, there was no evidence that assigned personnel in the SEC's Offices/Divisions (program offices) who were responsible for monitoring contracts actually reviewed the contract fund status and notified the proper office when excess funds should have been deobligated from the contract. We did not find contract modifications to de-obligate funds on the contracts in the contract closeout files.

The SECR 10-14, *Procurement Contract Administration*, April 2005, (SECR 10-14) provides for close-out procedures that are applicable to all SEC contracts, including acquisitions placed under the Economy Act (31 U.S.C. 1535). Though SECR 10-14 consists of three forms (SEC 2350, Contractors' Performance Evaluation; SEC 2414, Contract Completion Statement; and SEC 2415, Contract Closeout Checklist) that must be completed as a part of the contract administration close-out process, none of the forms were completed in any of the 25 contract files that we reviewed. The contracting officers indicated that this occurred because the SEC forms were outdated and of no use.

Pursuant to the SECR 10-14, the close-out process "requires coordination among the Procurement and Contracting Branch, OAS, Comptroller, contractor, and the program office." Implicit in this requirement is the need to ensure that the close-out process is completed by an individual with the requisite acquisition knowledge and experience. The FAR Subpart 4.8—Government Contract Files, 4.804-5, *Procedures for Closing-Out Contract Files*,¹⁰ provides as follows:

(a) The contract administration office is responsible for initiating (automated or manual) administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, the contract administration office must review the contract funds status and notify the contracting office of any excess funds the contract administration office might deobligate. When complete, the administrative closeout procedures must ensure that:

- 1) Disposition of classified material is completed;
- 2) Final patent report is cleared;
- 3) Final royalty report is cleared;
- 4) There is no outstanding value engineering change proposal;
- 5) Plant clearance report is received;

¹⁰ FAR Subpart 4.8—Government Contract Files, 4.804-5, *Procedures for Closing-Out Contract Files*.

- 6) Property clearance is received;
- 7) All interim or disallowed costs are settled;
- 8) Price revision is completed;
- 9) Subcontracts are settled by the prime contractor;
- 10) Prior year indirect cost rates are settled;
- 11) Termination docket is completed;
- 12) Contract audit is completed;
- 13) Contractor's closing statement is completed;
- 14) Contractor's final invoice has been submitted;
and
- 15) Contract funds review is completed and excess funds deobligated.

Also, the FAR 4.805, *Storage, Handling, And Disposal of Contract Files*¹¹, provides that:

- (a) Agencies must prescribe procedures for the handling, storing, and disposing of contract files. These procedures must take into account documents held in all types of media, including microfilm and various electronic media.

We determined that the deficiencies associated with the files as outlined above occurred as the result of OA's inadequate internal controls over the procurement contract administration process. Specifically, OA does not have a process in place that identifies contract close-out procedures, contracts that should be closed, when close-out should commence, and documentation that should be maintained as evidence to properly close contracts in accordance with FAR and Commission requirements. As a result, there is an increased risk that the Commission's contracts are not being properly closed.

When these conditions were discussed with OA, management indicated that they would develop a formal process for identifying contracts for close-out. This included identifying contracts that should be closed-out, and providing separate secured storage for these contracts. Management also informed us that they would arrange for trained personnel to be assigned the responsibility for contract close-out.

Recommendation 9:

The Office of Acquisitions should update the SECR 10-14, *Procurement Contract Administration*, regarding contract close-out and ensure that

¹¹ FAR 4.805, *Storage, Handling, And Disposal of Contract Files*.

it properly aligns with the Federal Acquisition Regulation regarding proper contract close-out procedures.

Recommendation 10:

The Office of Acquisitions should develop an internal review process and checklist to further ensure compliance with the Federal Acquisition Regulation contract closeout procedures.

Acronyms and Abbreviations

APS	Automated Procurement System
COTR	Contracting Officer's Technical Representative
Enforcement	Division of Enforcement
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
FY	Fiscal Year
OA	Office of Acquisitions
OAS	Office of Administrative Services
OFM	Office of Financial Management
OFPP	Office of Federal Procurement Policy
OIG	Office of Inspector General
OIT	Office of Information Technology
OMB	Office of Management and Budget
PDS	Procurement Desktop System
SAM	Strategic Acquisition Manager
SEC or Commission	Securities and Exchange Commission
SECR	Securities Exchange Commission Regulation
SPE	Senior Procurement Executive

Scope and Methodology

This audit was conducted 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objectives.

Scope. Regis conducted the audit from January 12 through February 17, 2009, using procedures approved by the OIG. From July through August 2009 we performed follow-up procedures to ensure that our work was still valid. The scope of the audit and our professional services consisted of reviewing OAS' activities covering a three to five year audit cycle. We identified all contract types (e.g., labor-hour vs. fixed-price, cost-based, sole source) that the Commission uses. We also reviewed cost reimbursable, time and material, and labor hour type contracts to determine whether they are being properly closed-out in accordance with FAR, and whether the costs claimed are allowable, allocable and reasonable, in accordance with the terms of the contract and FAR. Furthermore, we reviewed OAS' PRISM migration and the implementation phases. In addition, we reviewed OAS' policies, operating procedures, and SEC Regulations related to procurement and contract administration and management.

Methodology. The methodology was designed by using a risk-based approach. The audit consisted of several processes including reviewing policies and procedures governing the procurement and contracting processes and functions; conducting interviews and walk-through procedures with appropriate OAS personnel to document our understanding, observing actual processes; and conducting detailed reviews of selected contract files.

To address the first audit objective we identified the population of contracts and other procurement vehicles administered by OAS during FY 2007 to FY 2008. We also obtained a list of open contracts from OA and OFM. OA provided two lists of open contracts; a list from the FPDS system and another list from OA personnel consisting of the Contracting Officer's Word and Excel spreadsheets. The list from OFM is generated from Momentum. We judgmentally selected 32 open contracts and requested that OA provide us with contract files. The sample consisted of Firm Fixed Price, Time-and Material, and Labor-Hour-contracts.

Specifically, we reviewed each file to determine whether the costs claimed were allowable, allocable, and reasonable in accordance with the terms of the contract and FAR. We verified that the contents required to be included in the contract folders, according to FAR, were present. Furthermore, we reviewed the original contract document and noted the contract value and ensured that all pertinent documents were available within the file.

In addition, for firm fixed price contracts, we reviewed the contract files to determine the ceiling costs and any price adjustments. If a contract was used on commercial items or supplies and services, we also reviewed documentation to determine if there was adequate competition. We also reviewed each Time-and-Materials and Labor-Hour contracts, and performed the following:

- Obtained, reviewed, and agreed total payments under each contract to amounts authorized, and obtained explanations from OAS on identified differences.
- Obtained copies of paid contractor invoices and determine whether payments were in accordance with the terms of the contracts. We accomplished this by reviewing such items as billed hourly rates, hours recorded on timesheets, labor categories, and billing periods.

To address the second audit objective, which was to determine whether cost reimbursable type contracts were properly closed in accordance with the FAR and costs were allowable, allocable, and reasonable, we selected and reviewed 25 closed contracts to determine whether SEC followed close-out procedures in accordance with FAR and SEC policies.

To address the third audit objective, which was to determine whether procurement activities in the Regional Offices were effectively managed and individuals performing procurement activities were properly trained in accordance with OMB requirements, we developed and sent a survey questionnaire about procurement functions, processes, activities, oversight, and reporting to the Regional Office staff. We reviewed the results of the survey to develop a general consensus of the Regional Offices' operations. We selected and followed-up with six of the Regional Offices on their responses to the survey questionnaire.

We obtained organizational charts identifying the various SEC officials who were responsible for functions within the OA and identified the personnel we would interview. We further reviewed the policies and procedures that govern the procurement and contracting management functions, conducted

interviews and walkthroughs to document our understanding of how purchase requisitions and solicitations are managed. Also, we reviewed the receipt and evaluation of contract offers and quotes. We reviewed documentation pertaining to the preparation, administration, and close-out of awards. We also obtained and reviewed sample contracts for compliance with the FAR and SEC's regulations and policies. We developed a survey to determine the level of involvement of select personnel in the SEC's Regional Offices who perform its procurement and contracting activities. The survey was issued to Regional Offices' personnel on December 19, 2008, and we accepted responses to the survey through January 19, 2009. Also, we interviewed personnel from the Regional Offices for compliance with FAR and SEC regulations and policies regarding the performance of their procurement functions. Finally, we examined whether procurement activities in the Regional Offices were effectively managed and are properly trained in accordance with OMB's requirements.

Internal Controls. We reviewed the internal controls that were considered significant within the context of the audit objectives. To evaluate control activities we obtained and reviewed applicable information from governing regulations and guidelines such as the FAR, OMB circulars and guidelines, SECR's issued by the Commission, and the Office of Federal Procurement guidance. We interviewed OA and the Regional Office staff and performed analyses to test whether staff had adhered to the requirements outlined in the policies and procedures, rules, regulations, and in other written documentation. Through interviews with SEC staff we gained an understanding of the OAS and OA management and supervisory activities and the internal controls that are currently being used.

Criteria

FAR Subpart 4.1, 4.600 Scope of Subpart. Prescribes uniform reporting requirements for the FPDS.

FAR Subpart 4.606(a), Actions required to be reported to FPDS. Prescribes the policies and procedures relating to the administrative aspects of contract execution, contractor-submitted paper documents, distribution, reporting, retention, and files.

FAR 4.801, General. Prescribes the requirements for establishing, maintaining, and disposing of contract files.

FAR 4.804-4, Physically Completed Contracts. Describes when a contract is considered to be physically completed.

FAR 4.805, Storage, Handling, and Disposal of Contract Files. Identifies when and how agencies must prescribe procedures for the handling, storing, and disposing of contract files.

FAR 52.232-7 Payments Under Time and Materials and Labor Hour Contracts. Describes how the Government will pay the Contractor upon the submission of vouchers approved by the Contracting Officer or the authorized representative.

Office of Federal Procurement Policy Letter 05-01, Developing and Managing the Acquisition Workforce. Requires the Federal Acquisition Institute and Chief Acquisition Officer's Council to approve a program that standardized the education, training, and experience requirements for contracting professionals in an effort to improve workforce competencies.

OMB Circular A-123, *Management's Responsibility for Internal Control*. Defines management's responsibility for internal control in Federal departments and agencies. It also provides the guidelines for conducting entity level internal control reviews of the acquisition function.

SECR 10-2, Contracting Authorities and Appointments. Establishes uniform policies and procedures for the acquisition of the SEC's products and

services. Also, it describes the policies and delegates authority and accountability for the management of acquisition functions on behalf of the Chairman.

SECR 10-14, Contract Administration. Establishes the SEC's contract closeout program and explains how it functions.

List of Recommendations

Recommendation 1:

The Office of Administrative Services should develop record-keeping standard operating procedures to track procurement and contracting (acquisition) activities.

Recommendation 2:

The Office of Administrative Services should develop a periodic internal review process to ensure that the newly developed recordkeeping standards are followed.

Recommendation 3:

The Office of Administrative Services should determine the universe of active and open contracts and the corresponding value of the contracts. Once this is done, the Office of Acquisitions should reconcile the universe of active and open contracts with the Office of Financial Management's active contract list.

Recommendation 4:

The Office of Administrative Services should develop an internal process to ensure procurement data is accurately and fully reported in the Federal Procurement Data System for both the Commission's headquarters and the Regional Offices/Divisions.

Recommendation 5:

The Office of Administrative Services shall develop an acquisition training plan to ensure all Commission headquarters and Regional Offices/Divisions acquisition workforce performing procurement and contracting duties have requisite acquisition training that complies with the applicable Office of Federal Procurement Policy training requirements.

Recommendation 6:

The Office of Administrative Services shall provide Regional Offices with oversight including the proper use of Contracting Officer Technical

Representatives, Inspection and Acceptance Officials, Point-of-Contact personnel and other personnel that handle procurement and contracting activities and ensure acquisition controls are in-place for all contracting and procurement activities and appropriate data reporting in the Federal Procurement Data System.

Recommendation 7:

The Office of Acquisitions should revise and finalize its data migration plan and include key controls or steps that will ensure that all data migrated into PRISM is accurate and complete and has been reconciled or compared at a minimum to the contracting officer's Word and Excel spreadsheets, and the data that is in SAM and Momentum.

Recommendation 8:

The Office of Acquisitions should re-educate the acquisition workforce on the Federal Acquisition Regulation requirements that are related to Time-and-Materials, and Labor-Hour contracts, by specifically addressing proper documentation to support invoice payments. This could be accomplished by issuing a Securities and Exchange Commission Administrative Notice.

Recommendation 9:

The Office of Acquisitions should update the SECR 10-14, *Procurement Contract Administration*, regarding contract closeout and ensure that it properly aligns with the Federal Acquisition Regulation regarding proper contract closeout procedures.

Recommendation 10:

The Office of Acquisitions should develop an internal review process and checklist to further ensure compliance with the Federal Acquisition Regulation contract closeout procedures.

Management Comments

MEMORANDUM

September 24, 2009

TO: H. David Kotz
Inspector General
Office of the Inspector General (OIG)

FROM: Sharon Sheehan 
Associate Director
Office of Administrative Services (OAS)

SUBJECT: OIG Draft Audit of OAS Procurement and Contract Management
Functions, Report No. 471

Thank you for the opportunity to comment. OAS has begun taking appropriate steps to address these recommendations. You will see that OAS concurs with all 10 recommendations.

OAS comments to Recommendation 1:

OAS concurs. OAS is changing its operating procedures and developing a holistic record-keeping system. OAS recently hired a Records Administrator who will be responsible for developing operating procedures for recording and managing the OA contract files. OAS envisions this system to be in conjunction with the newly deployed automatic procurement system (PRISM), thus giving OA a consolidated record of active, pending, completed, modified, or cancelled contracts. Files will be stored and controlled through a standard process. Electronic copies of these files will also provide redundancy. As OA works through this new record-keeping process, the steps will be memorialized in an OA operating procedure.

OAS comments to Recommendation 2:

OAS concurs. The OAS Records Administrator will be responsible for monitoring day-to-day compliance. In addition, the Policy Oversight and Acquisition Program (POAP) branch intends to deploy in Fiscal Year 2010 (FY10), an oversight program. As part of this program, POAP will conduct periodic reviews to ensure compliance. An element of these reviews will look at compliance to these record-keeping standards. This initiative will aid OA in the identification of any record-keeping discrepancies.

OAS comments to Recommendation 3:

OAS concurs. As discussed in the comment to Recommendation 1, OAS is changing its operating procedures and developing a holistic record-keeping system. In addition to hiring a Records Administrator, OA is in the process of hiring a SK-14 Systems Administrator to support the newly deployed automated procurement system (PRISM). OAS envisions the new record-keeping system to

operate in conjunction with PRISM, thus giving OA a consolidated record of active, pending, completed, modified, or cancelled contracts. Once a list of active and open contracts and the corresponding value of the contracts has been compiled, OA will reconcile the universe of active and open contracts with OFM's active contract list.

OAS comments to Recommendation 4:

OAS concurs. OA will be hiring a PRISM Systems Administrator. In addition to the duties of a Systems Administrator, he or she will provide one-on-one assistance to OA procurement staff and Regional contracting officers and their support staff. This assistance includes training staff on PRISM and proper Federal Procurement Data System (FPDS) data recording, and performing periodic reviews of FPDS data for accuracy. PRISM automatically feeds data to FPDS which reduces double-entry and risk of inconsistent information. This assistance includes training staff on PRISM and proper FPDS data recording, as well as conducting the required FPDS Independent Verification and Validation review and reporting the findings to the OFPP. This initiative will aid OA in the identification of competency gaps by periodically reviewing FPDS data input, so that both OA & Regional contracting officers can be properly trained in correct data input.

OAS comments to Recommendation 5:

OAS concurs. OAS agrees that SEC must comply with the Office of Federal Procurement Policy (OFPP), Federal Acquisition Certification in Contracting (FAC-C) and any other OFPP certification requirement related to an Agency's acquisition workforce. OAS also concurs, that OA needs to provide training to non-1102 personnel not for career certification purposes but training on the proper usage of Government Purchase Card (GPC) and simplified acquisitions actions within the scope of the Regional Offices' warrant authority (limited authority to procure services, such as litigation support at the regional level up to \$100,000). OA has received informal commitments from several Regional Office Heads in support of this type of training.

On page 12 of the draft audit, 2nd para., 1st bullet, states, "Contracting officers from OA should visit the Regional Offices to gain an understanding of "what goes on here." This would give the contracting officers a better understanding of the Regional Offices' needs." OA contracting officers visited four Regional Offices in FY09, and OA has submitted a budget request to visit the remaining Regional Offices in FY10. The original plan was to visit the remaining Regional Offices in FY10 and FY11. OAS understands the urgency of completing all remaining assistance visits in FY10. OA contracting officers and staff currently provide in-person training during assistance visits to the Regional Offices, and telephonic on-the-job training when these Regional Office staff members have questions or concerns related to procurement matters.

The purpose of the assistance visits is to provide training on procurements specific to the Regional Office's limited warrant authority, and to review recently awarded procurement actions, such as purchase orders and GPC transactions, to ensure compliance with the Federal Acquisition Regulation (FAR) and SEC regulation, policies, and guidance. OA periodically has trained personnel in the proper use of GPCs. OA is in the process of developing a more robust acquisition training plan for the Regional Offices that will provide additional information, such as new and revised SEC-Rs. Also, OED will be hosting an Administrative Contact Conference scheduled for February, 2010. Two representatives from each Regional Office will be in attendance. OA will provide an all-day training session on procurement-related matter to better assist non-1102s in the regions who handle procurements.

Consistent with OIG Audit 430, OAS continues to view the procurement activities executed by the Regional Offices as not applicable to OFPP, FAC-C program. These visits to the Regional Offices support OAS' belief that OAS complies with this OFPP requirement. OFPP memorandum, *The Federal Acquisition Certification in Contract Program*, dated January 20, 2006, reads that this requirement does not apply to non-1102s personnel whose warrants are so limited as to be outside the scope of the FAC-C program, as determined by the Chief Acquisition Officer. As such, tying non-1102 warrants (low-dollar, simple transactions with narrow authority) to FAC-C program certification requirements levels is ineffective in addressing the root cause of complaints by the regions addressed in OIG Audit 430 or preventing unauthorized commitments from occurring.

OAS and OED will determine whether the individuals currently warranted, the Regional Directors, select Deputy Regional Directors, and select Regional legal counsel, are the appropriate positions to be warranted. It may be more appropriate to warrant a member of the Regional Office Director's staff. This individual should not be the individual managing the budget, processing the procurement actions, and then signing the business arrangement. OAS is mindful of the separation of functions and sensitive to preventing any procurement integrity violations. Regardless of who in the Regions is warranted, the formal training currently being provided by OA during the assistance visits, and the assistance service provided telephonically or by email has already improved the situation in the Regions. OA found during the on-site assistance visits that most GPC and procurement files were well-kept, had required supporting documentation, and were properly stored. OA has also identified through the OA ratification of unauthorized commitments policy and procedures that most unauthorized commitments are not committed by warranted personnel.

OAS comments to Recommendation 6:

OAS concurs. OA branch chief contracting officers visited four Regional Offices in FY09 with the remaining Regional Offices visits planned in FY10. The scope of these visits focused on training personnel on procurements specific to the

Regional Office's limited warrant authority, and reviewing recently awarded procurement actions, such as purchase orders and GPC transactions, to ensure compliance with the FAR and SEC regulation, policies, and guidance. OA will expand the scope of these reviews to conduct periodic views of Contracting Officer Technical Representatives (COTRs), Inspection and Acceptance Officials (IAOs) and Point-of-Contacts (POCs) contract administration records.

OAS comments to Recommendation 7:

OAS concurs. The PRISM and Momentum team is in the process of revising the data migration plan to include key controls to ensure accurate and complete data. This plan also includes various scenarios to provide guidance on how to reconcile information contained within the contracting officer's official paper contract file against information contained in Momentum before information is migrated into PRISM and corrections made in Momentum. As part of this plan, OA does not intend to use information gathered from contracting officer's Word and Excel spreadsheets or information contained in PRISM's predecessor (SAM) but rather information contained from the paper contract file and Momentum. This plan is expected to be finalized early October, 2009.

OAS comments to Recommendation 8:

OAS concurs. POAP is in the process of developing policy guidance specific to Time-and-Materials and Labor-Hour contracts that will address proper documentation to support invoice payments. POAP will accomplish this by issuing guidance to a targeted audience involved in the procurement process vice all SEC employees. This guidance will be an OA Acquisition Newsflash and a revised SEC-R 10-14 *Procurement Contract Administration*, which will be posted to the SEC Insider.

OAS comments to Recommendation 9:

OAS concurs. POAP is revising SEC-R 10-14 and instituting an OA operating procedure to support the regulation. This regulation and operating procedure will be available the 1st quarter of FY10. The revised SEC-R 10-14 *Procurement Contract Administration* will be posted to the SEC Insider.

OAS comments to Recommendation 10:

OAS concurs. As discussed in the OAS comments to Recommendation 2.

Should you have any questions, please contact Mr. Norbert Doyle, Head of the Contracting Activity, at ndoyle@sec.gov or at 202-551-8699.

Office of Inspector General's Response to Management's Comments

The Office of Inspector General is pleased that the Office of Administrative Services (OAS) concurred with the report's 10 recommendations. We believe that OAS' proposed actions are responsive to our findings and recommendations and are pleased that OAS has already taken action to implement some of the recommendations that are identified in our report. Once all of the recommendations are fully implemented, we believe the Commission's internal controls over the procurement and contract management function will be strengthened.

Audit Requests and Ideas

The Office of Inspector General welcomes your input. If you would like to request an audit in the future or have an audit idea, please contact us at:

U.S. Securities and Exchange Commission
Office of Inspector General
Attn: Assistant Inspector General, Audits (Audit Requests/Ideas)
100 F Street, N.E.
Washington D.C. 20549-2736

Tel. # 202-551-6061
Fax # 202-772-9265
Email: oig@sec.gov

Hotline

To report fraud, waste, abuse, and mismanagement at Commission, contact the Office of Inspector General at:

Phone: 877.442.0854

Web-Based Hotline Complaint Form:
www.reportlineweb.com/sec_oig