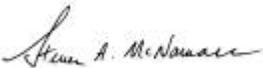


Office of Inspector General
U.S. House of Representatives
Washington, DC 20515-9990

MEMORANDUM

TO: Alan Hantman
Architect of the Capitol



FROM: Steven A. McNamara
Inspector General

DATE: November 14, 2002

SUBJECT: Audit Report - Contract Administration Within The Architect Of The Capitol
Needs Improvement (Report No. 02-AOC-07)

This is our final report on the contract administration of goods and services contracts awarded for the Superintendent, House Office Buildings. The objective of this audit was to review the adequacy of contract administration of goods and services contracts awarded for the Superintendent, House Office Buildings. In this report, we concluded that the Architect of the Capitol has adequate controls over procurement actions during the pre-award phase of contracts awarded for the Superintendent, House Office Buildings. However, improvements are needed in contract administration during the post-award phase of contracting with respect to the organization, policies and procedures, and processes to control oversight of contractor performance.

In response to our June 17, 2002 draft report, your office concurred with our finding and recommendations. The July 22, 2002 management response is incorporated in this final report and included in its entirety as an appendix. The corrective actions taken and planned by your office are appropriate and, when fully implemented, should adequately respond to the recommendations. Further, the milestone dates provided for implementing corrective actions appear reasonable.

We appreciate the courtesy and cooperation extended to us by your staff. If you have any questions or require additional information regarding this report, please call Christian Hendricks or me at (202) 226-1250.

cc: Speaker of the House
Majority Leader of the House
Minority Leader of the House
Chairman, Committee on House Administration
Ranking Minority Member, Committee on House Administration
Members, Committee on House Administration

Contract Administration Within The Architect Of The Capitol Needs Improvement

I. INTRODUCTION

Summary of Results

The Architect of the Capitol (AOC) has adequate controls over procurement actions during the pre-award phase of contracts awarded for the Superintendent, House Office Buildings (House Superintendent). These procurement actions include statement of work and task order development and their advertisement, proposal evaluation, award, and modification processes. However, improvements are needed in contract administration during the post-award phase of contracting with respect to the organization, policies and procedures, and processes to control oversight of contractor performance. Our review did not identify any adverse effects from the contracts reviewed. However, the House Superintendent is at risk of not receiving what it paid for, experiencing unnecessary cost overruns, and violating the Antideficiency Act. The “Results Of Review” section provides the AOC recommendations for improvement.

Background

The contracting process can be divided into two phases -- pre-award and post-award. Procurement actions such as statement of work and task order development and their advertisement, amendment, proposal evaluation, award, and modification processes occur during the pre-award phase of the contracting process. On the other hand, contract administration occurs exclusively during the post-award phase of the contracting process. According to *A Guide to Best Practices for Contract Administration*, Office of Federal Procurement Policy (OFPP), October 1994, “Contract administration involves those activities performed by government officials after a contract has been awarded to determine how well the government and the contractor performed to meet the requirements of the contract. It encompasses all dealings between the government and the contractor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved. As such, contract administration constitutes that primary part of the procurement process that assures the government gets what it paid for.”

To assure the government gets what it paid for, an organization must establish an effective procurement/contract administration function equipped with essential tools to track and manage its contracts through comprehensive policies and procedures, standards of conduct, accountability, separation of duties, well-documented and organized files, and a training program for its Contracting Officer Representatives (CORs).

Objective, Scope, And Methodology

The objective of this audit was to review the adequacy of contract administration of goods and services contracts awarded for the House Superintendent. Specifically, we focused on whether the statements of work, bid solicitations, and award procedures were effective to procure what

was needed. In addition, we assessed monitoring procedures and practices to determine if the House was getting the benefits of what was paid for.

We conducted this review in accordance with government auditing standards as implemented by the House Office of Inspector General (OIG). The audit covered contracts started or completed during the period January 1999 through December 2000. The offices associated with contract-related activities compiled a list of 67 contracts, with total awards of approximately \$21.8 million that conformed to the time period of this audit. From this list we selected a sample of 11 contracts, with total awards of approximately \$13.6 million. We reviewed the 11 contract files, 7 associated COR files, interviewed the assigned CORs and Construction/Project Managers, made 4 site visits, and verified payments for 7 supplies, services, and construction contracts. In addition, we reviewed the policies, procedures, and processes associated with contract awards and administration.

Internal Controls

During this review, we evaluated the internal controls associated with procurement and contract administration functions. Specifically, we reviewed procurement controls over the advertisement, proposal, evaluation, award, amendment, and modification process. We reviewed contract administration controls over COR appointment and training, file organization and management, monitoring and inspecting contractor performance, issuing change orders and supplemental agreements, obligating funds, certifying contractor's invoices for payment, making payments, and processing contract closeouts. Controls over procurement were effective. However, controls over contract administration needed improvement. These needed improvements are discussed in the "Results Of Review" section of this report.

Prior Audit Coverage

No prior audits of contract administration for the House Superintendent have been conducted.

II. RESULTS OF REVIEW

Our review of contracts for the House Superintendent indicated that the AOC had adequate controls over procurement actions during the pre-award phase of contracting. Specifically, we identified no problems with the statement of work and task order development, advertisement, proposal evaluation, award, and the modification process. However, improvements were needed in contract administration during the post-award phase of contracting. Weaknesses in the contract administration process were due to the decentralization of the procurement process within AOC organizations, lack of comprehensive policies and procedures, a lack of training for the CORs, and conflicting responsibilities for personnel within the Construction Management Division (CMD) who served both as Construction/Project Managers and CORs. Although the AOC had not yet had any adverse effects for the contracts we reviewed, the House Superintendent is at risk of not receiving what it pays for, experiencing unnecessary cost overruns, and violating the Antideficiency Act.

Organization

The organization of the AOC procurement process evolved over time and is such that no single office manages the pre-award and post-award phases of contracting or maintains a formalized system of records. The offices of the AOC that have primary procurement responsibility are the Procurement Division (PD), General Counsel, and CMD. A brief overview of the primary procurement responsibilities within three of the AOC's organizations follows.

The PD processes a variety of procurement requests -- competitively bid contracts that may be either formal advertisements or negotiated requests for proposals, small purchases for amounts of \$25,000 or less, orders under General Services Administration contracts listed in the Federal Supply Schedules, and sole source contracts other than those processed by the General Counsel. Among the competitively bid contracts are four different types of indefinite delivery, indefinite quantity (IDIQ) contracts to facilitate the acquisition of services to primarily support the Superintendents and CMD.¹

The General Counsel processes sole source or non-competitively bid contracts for quick turn around or public exigency and curatorial, restoration of artwork, or architectural and engineering (A & E) services. At one time the General Counsel processed all professional service contracts, including A & E service contracts without advertising. The AOC has shifted responsibility for processing large A & E contracts to the PD where they are advertised and competed. However, the General Counsel continues to maintain large contracts that were awarded several years ago, such as the Botanical Gardens and the Capitol Visitor Center.

The CMD issues task orders on the Job Order Contract without assistance and task orders on the Solution Order Contracts with some assistance from the PD. In addition, CMD Construction/Project Managers have signatory authority up to \$10,000 to issue change orders, either unilaterally or bilaterally, and supplemental agreements to contracts for their projects.

Since the contracting functions within the AOC are decentralized, there is no central repository or database system to manage the contracts to keep track of the number, purpose, jurisdiction, dollar value, and status of the contracts and control the funds. To retrieve contract files, one has to understand the workflow, know who administers the contracts, or contact various offices before the files can be located. Although various offices associated with contract-related activities compiled for us a list of contracts awarded within the jurisdiction of the House Superintendent, without a central repository and database management system to capture essential information, we have no assurance the list is complete.

In addition, the lack of a formalized system of records leads to incomplete contract files. Each office maintains its individual contract files, organizes them differently, and generally does not

¹ (1) The Job Order Contract (JOC) is a prototype test awarded to one company based on pre-determined specifications and prices to smooth out the peaks and valleys of Construction Management Division's workload.
(2) Solution Order Contracts (SOC) are awarded to multiple companies who can respond quickly to needs for repairs, alterations, and construction.
(3) Multiple Award Small Construction Contracts (MASC) will replace the JOC contract and will be similar to SOC, but with lower ceilings on delivery orders.
(4) Architecture and Engineering IDIQ Contracts are awarded to multiple companies who can respond quickly to needs for architectural and engineering services including design, site assessments, and feasibility studies.

share the contents. As a result, the contracting officer or designee may not have the information needed to initiate or support corrective action. For example, the Head of the PD cited a contract where there had been problems, and his office needed information from the COR's files only to learn that the COR had shredded the files. In addition, during the early stages of a building cleaning contract, numerous problems surfaced that needed to be addressed. When the PD was addressing these problems, documentation needed was not readily available since it was in the COR's files.

Policies and Procedures

The AOC does not have a comprehensive set of policies and procedures to cover all areas of contracting. The policies and procedures that do exist were developed independently by the offices involved in procurement activities. They are not uniform and not always followed. For example, the PD's *Standard Operating Procedures*, dated June 18, 2001, is similar to the Federal Acquisition Regulation (FAR) that applies to Federal Agencies. However, certain parts of the FAR are omitted primarily because the FAR does not apply to the AOC as stated in Section 2.1, Definitions, "Federal Agency" means any executive agency or any independent establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect's direction)." Even though the PD's *Standard Operating Procedures* follow the FAR's topical organization, contract administration is not covered. To their credit, the PD has developed, under separate cover, *Contracting Officer's Representative (COR) Instruction*, dated December 2000, but they do not cover development of administration plans specific to contracts, directions for contract closeouts, contractor evaluations, disposition of documents of the "official contract" files, or standards of conduct.

The CMD's *Procedures Manual for Contract Administration of Outside Construction Contracts*, dated June 15, 2000, provides comprehensive guidance for the Construction/Project Managers who also serve as CORs. However, with this authority, we found instances where CMD's procedures for issuing change orders and supplemental agreements were not followed. For example, Construction/Project Managers/CORs released change orders and supplemental agreements to contractors who billed and received payment for work performed before funds were obligated for the changes. Had these additional commitments to expend funds exceeded the appropriation for the project, violations of the Antideficiency Act, 31 U.S.C. § 1341(a)(1)(A), could have occurred.

Although the CMD's procedures manual covered aspects of contract administration, the PD's procedures did not cover any of the topics that needed to be addressed. Good business practices for policies and procedures documents would include topics such as contractor oversight and monitoring activities, development of contract administration plans, contract closeout procedures, contractor evaluations, disposition of closed files, and definition of COR responsibilities. In addition, COR responsibilities should include testing and evaluating contractor performance, organizing and maintaining COR files, closing out and disposing of contract files, and complying with standards of conduct. A set of comprehensive policies and procedures needs to be developed and made available to all entities within the AOC to promote excellence in contract administration and ensure the standards for contractor performance are met.

At the time of our review the General Counsel had not developed any formal written procurement policies and procedures even though the General Counsel recognized that the office probably should have some. However, since the General Counsel’s procurement responsibilities for sole source contracts are being reduced, we are not recommending that the General Counsel develop any formal written policies and procedures at this time.

Oversight of Contractor Performance

Oversight of contractor performance could be more effective since current business processes do not consistently appoint CORs to monitor contracts, provide formal training, or ensure separation of duties with no conflicts in responsibilities. Of the 11 contracts reviewed, only 2 issued by the PD contained letters appointing a COR. These two appointment letters appropriately provided guidance to the CORs. Although COR appointment letters inform CORs of their roles, responsibilities, and authorities, they are intended to supplement the guidance provided in the contract and in the PD’s policies and procedures.

For CORs to be effective, they need adequate training to ensure their compliance with applicable contract administration policies and procedures. Yet, none of the individuals had received any formal training as a COR while with the AOC. Fortunately, many had prior experience on which they relied to fulfill their contract monitoring duties. Although the PD indicated that a training program is “in the works”, one had not been established as of the end of our field work.

In addition, the four contracts managed by the CMD had appointment letters delegating authority, within expressed limits, to the Construction/Project Manager to monitor the contract and issue change orders and supplemental agreements up to a specific dollar amount. As previously stated, the CMD’s Construction/Project Managers also serve as CORs for their respective projects since separate and independent CORs were not appointed. The table below shows appropriate responsibilities for the Construction/Project Manager and the COR. Yet, in the CMD these responsibilities conflict because they were assigned to the same individual.

Construction/Project Manager²	Contracting Officer’s Representative³
“Initiate correspondence and issue change orders and supplemental agreements for full payment of costs to contractors up to and including \$10,000 and any associated time extension up to and including 14 calendar days, after obtaining a certification of availability of funds from accounting.”	“As COR, you are <u>not authorized</u> to: ...Modify or otherwise change the contract; you must submit any need for or request for a change to the contract to the CO.” and “ <u>Under no circumstances</u> , may the COR direct the contractor to perform work which is not explicitly covered under the contract.”
“Approve/disapprove submittals, deviations, and other routine documents/forms associated with your responsibilities as Construction Manager.”	“As COR, you are <u>not authorized</u> to:... Take any action which may affect any of the contract’s terms and conditions.”
“...issue change orders and supplemental agreements for full payment of costs to contractors up to and including \$10,000...”	“Certify and submit to the Accounting Division the contractor’s invoice request(s) for payment for supplies and/or services which have been accepted.”

² Delegation of Authority to Construction Manager, dated June 9, 2000.

³ Appointment of Contracting Officer’s Representative, dated January 15, 2001.

Good business practices would have separate individuals perform these duties since there are conflicts in these responsibilities and a lack of separation of these duties. One appropriate solution to strengthen controls and separate duties would be to establish a contract administration function to work with the CORs and assign a contract administrator who represents the interest of the contracting officer to assist the CMD in their project management role.

Conclusion:

Overall, the procurement actions associated with developing statements of work and task orders, soliciting bids and quotes, and awarding contracts for the House Superintendent were satisfactory. However, after the contracts were awarded, we identified areas where there is room for improvement in contract administration. The decentralized organization, lack of comprehensive policies and procedures, and COR appointments and training put the House Superintendent at risk of not receiving what it paid for, experiencing unnecessary cost overruns, and violating the Antideficiency Act.

Although among the contracts reviewed, we observed no negative effects or instances where the House did not get what was paid for, the House was fortunate that the contract requirements were well defined and the supplies, services, and construction projects were relatively small in dollar value for the AOC. In addition, the House was fortunate that some appointed CORs had prior experience monitoring contracts, and one of the CORs kept cuff records to ensure that the overall allotment for the respective contract was not exceeded. However, to improve the contract administration process to assure the House gets what it paid for, we are making the following recommendations.

Recommendations:

We recommend that the Architect of the Capitol:

1. Review the possibility of consolidating contracting responsibilities within the Architect of the Capitol.
2. Develop adequate internal operating processes/procedures to establish:
 - a. A central database management system with a meaningful numbering system for all Architect of the Capitol contracts to include identification of the jurisdictions for which the contracts are awarded;
 - b. A formalized system of contract records, uniformly organized, that includes both contracting officer files and documents from the Contracting Officer Representative's files; and
 - c. Comprehensive policies and procedures for:
 - (1) Contract administration with respect to the oversight, monitoring activities, and development of contract administration plans;
 - (2) Contract closeout procedures, contractor evaluations, and disposition of closed contract files; and
 - (3) Contracting Officer Representative responsibilities to include testing and evaluating contractor performance, organizing and maintaining COR files,

evaluating contractor performance, closing out and disposing contracts files, and complying with standards of conduct.

3. Consider establishing a contract administration function to be responsible for:
 - a. Ensuring that Contracting Officer Representatives are consistently appointed to monitor contracts;
 - b. Developing a Contracting Officer Representative training program;
 - c. Ensuring no conflicts in responsibilities exist and duties are appropriately separated for Contracting Officer Representatives; and
 - d. Assisting Construction Management Division Project Managers in carrying out their responsibilities.

Management Response

On July 24, 2002, the Architect of the Capitol concurred with the finding and recommendations contained in this report. The Architect of the Capitol will take the following steps to improve the process: 1) review the possibility of consolidating contracting responsibilities within the Architect of the Capitol; 2) develop adequate internal operating processes/procedures; and 3) conduct a study to consider establishing a contract administration function as recommended.

Office of Inspector General Comments

The actions taken and planned by the Architect of the Capitol are responsive to the issues identified. The actions currently ongoing and planned, when implemented, should satisfy the intent of the recommendations.



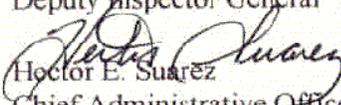
UNITED STATES GOVERNMENT
MEMORANDUM

ARCHITECT OF THE CAPITOL
WASHINGTON, DC 20515

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER
CAPITOL BUILDING, SB-17

DATE: July 22, 2002

TO: Christian Hendricks
Deputy Inspector General

FROM: 
Hector E. Suarez
Chief Administrative Officer

SUBJECT: Draft Audit Report - Contract Administration Within the AOC
Needs Improvement

This is in response to your memorandum of June 17, 2002, requesting our comments on the subject report. We have noted your comments on Organization, Policies and Procedures, Oversight of Contractor Performance, Conclusion and Recommendations. Noting that no specific contracts material discrepancies were found (there were no instances identified where the House did not get what was paid for through the contracts process), we agree that steps can and should be taken to improve the process.

We are in agreement with the report's recommendations. We plan to:

- 1) review the possibility of consolidating contracting responsibilities within the Architect of the Capitol. We project completing this review in FY-03.
- 2) develop adequate internal operating processes/procedures. Pending completion of our Agency's reorganization, we project completing additional processes for this effort by January 2003. Currently, the Procurement Division maintains/is establishing adequate policies and procedures for personnel under its purview as it relates to pre-award and post-award contract administration. For contracting personnel, administrative procedures are in place in the form of Standard Operating Procedures, AOC Orders and the general guidelines contained in the Federal Acquisition Regulations. As you may know, for CORs performing surveillance and administrative tasks, the division has developed a COR Instruction dated December 2000, and a "boiler-plate" COR designation letter. By October of 2002, the division will present a new classroom course for CORs on administering AOC contracts.
- 3) consider establishing a contract administration function as recommended. We project completing a study, with recommendations on options, for the contract administration function, by April 2003.

In looking to address the recommendation contained in the report, we should note that with our recent implementation of a computerized Financial Management System (FMS), there is a significant amount of work in progress addressing the purchasing (contracts/small purchases) process. Work process relationships, the numbering of contracts and purchase orders being assigned sequentially by fiscal year, the tracking of any given contract/purchase order number, reports generation by contract or purchase order number for any AOC jurisdiction, all are part of the database management system available to the Procurement Division.

In addition to on-going process improvement efforts (like FMS), we are in the midst of a significant organizational realignment within the AOC. Decisions being made as part of current organizational review may potentially impact procurement operations within the Agency. Thus, once our restructuring process is completed, we will focus additional attention to the development and completion of needed procurement policies and procedures; development and implementation of training modules for Contracting Officer Representatives, etc.

Please let me know if you have any questions or if you wish to discuss this in further detail. You can reach me at (202) 228-1205.