



**OFFICE OF INSPECTOR GENERAL**  
**EXPORT-IMPORT BANK**  
*of the UNITED STATES*

# **Audit of the Export-Import Bank's Contracting Processes**

**March 30, 2016**  
**OIG-AR-16-05**



**EXPORT-IMPORT BANK**  
*of the UNITED STATES*

INSPECTOR GENERAL

---

To: Michael Cushing  
Senior Vice President, Resource Management Group

From: Terry Settle *TL*  
Assistant Inspector General for Audits

Subject: Audit of the Export-Import Bank's Contracting Processes

Date: March 30, 2016

This final report presents the results of our audit of Export-Import Bank's ("Ex-Im Bank" or "the Bank") Contracting Processes. The objective of this audit was to determine whether Ex-Im Bank's contracting processes were in compliance with federal regulations and guidance, and the Bank's contract administration policy.

The report contains seven recommendations for corrective action. In response to our report, management concurred with all seven recommendations. Management's comments are included as Appendix II in this report. We consider management's proposed actions to be responsive. The recommendations will be closed upon completion and verification of the proposed actions.

We conducted this audit in accordance with 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We appreciate the cooperation and courtesies provided to this office during the audit. If you have questions, please contact me at (202) 565-3498 or [terry.settle@exim.gov](mailto:terry.settle@exim.gov). You can obtain additional information about the Export-Import Bank Office of Inspector General and the Inspector General Act of 1978 at [www.exim.gov/oig](http://www.exim.gov/oig).

cc: Fred Hochberg, Chairman and President  
Angela Freyre, General Counsel  
C.J. Hall, Executive Vice President and Chief Risk Officer  
David Sena, Senior Vice President and Chief Financial  
Officer Inci Tonguch-Murray, Deputy Chief Financial Officer  
Cristopolis Dieguez, Business Compliance Analyst

### **Why We Did This Audit**

The Resource Management Group's (RMG) Office of Contracting Services (OCS) is responsible for Ex-Im Bank's procurement and contract activities and processes. According to the Bank, during FY 2014 and 2015, OCS was responsible for 616 and 565 awarded actions totaling approximately \$50 million and \$58 million, respectively. Furthermore, the Bank reported that as of September 2015, contractor personnel represented 26 percent of the total number of personnel working for Ex-Im Bank. The objective of this audit was to determine whether Ex-Im Bank's contracting processes were in compliance with federal regulations and guidance, and the Bank's contract administration policy.

### **What We Recommended**

We recommended that the Bank: (1) Develop a comprehensive set of written policies and procedures to ensure contracts are administered and monitored in accordance with federal regulations; (2) Provide training and written guidance to Ex-Im Bank employees on the roles and responsibilities of Contracting Officers and the processes and procedures of OCS; (3) Develop a comprehensive set of written policies and procedures for the certification, training and designation of CORs; (4) In conjunction with OGC, develop policies and procedures that identify the specific contract characteristics or thresholds that would require the involvement of OGC; (5) Ensure contract data is maintained and readily available; (6) Recover the duplicate payment of \$3,240 from the vendor; and (7) Develop a process to prevent erroneous contract payments and inaccurate recording of invoice payment information. Management concurred with all seven recommendations.

### **What We Found**

The Office of Inspector General (OIG) found that the Export-Import Bank's Office of Contracting Services (OCS) does not have adequate internal controls to ensure Ex-Im Bank's contracting processes comply with federal contracting regulations. Specifically, we identified that: (1) OCS does not have a comprehensive set of written policies and procedures to ensure it follows sound contract processes in compliance with federal regulations; (2) many Bank employees do not understand the roles and responsibilities of contracting officers as outlined by the FAR; (3) Contracting Officer Representatives (CORs) are not properly certified, trained and designated as required by the FAR; (4) OCS has not identified the specific contract characteristics or thresholds that would require the involvement of the Office of General Counsel (OGC) in the acquisition process and (5) contract data is not readily available.

As result of the identified control deficiencies, we found: (1) improper, duplicate and untimely payments; (2) unauthorized commitments; and (3) incomplete contract files. In particular, we identified (1) \$304,462 in questioned costs and \$117,083 in funds for better use for an IT contract and (2) missing documentation supporting a \$75,622 five-year vehicle lease.

As a result of our audit, OCS began drafting a full set of written policies and procedures and completed two policy documents for immediate use - *The User Guide to Contracts* and the *COR Guide*. Furthermore, OCS developed a training program to certify CORs and is working with OGC to establish legal reviews where appropriate. Finally, OCS developed a plan to enter into an agreement with the Department of Treasury's Invoice Processing Platform (IPP) by April 1, 2016 to improve its payment process.

While we did not audit the new policies, and accordingly, have not determined if they are adequate to resolve the issues presented in this audit report, we believe these policies are responsive to our findings and will improve the Bank's contracting processes.

**Table of Contents**

Introduction .....1

Background .....1

Results .....2

Finding .....2

Recommendations .....10

Appendix I: Scope and Methodology .....14

Appendix II: Management Comments .....15

## **Introduction**

This report presents the results of our audit of the Export-Import Bank's ("Ex-Im Bank" or "the Bank") contracting processes. The objective of this audit was to determine whether Ex-Im Bank's contracting processes were in compliance with federal regulations and guidance, and the Bank's contract administration policy. To answer our objective, we reviewed applicable federal laws, regulations, and guidance including the Federal Acquisition Regulation (FAR). We also interviewed officials from Ex-Im Bank's Office of Contracting Services (OCS) to gain an understanding of the Bank's contracting processes. Additionally, we judgmentally selected and reviewed two contract files based on concerns related to contract usage and oversight that were brought to our attention by Ex-Im Bank employees. One contract was a \$2.4 million time and materials contract for Information Technology (IT) services and the other was a \$166,244 fixed price contract for parking services.<sup>1</sup> Both contracts had one-year terms with four one-year option periods. We interviewed the Contracting Officer's Representatives (CORs) assigned to these contracts and also attempted to interview the former, now retired, Chief Acquisition Officer, but the Bank was unable to provide his contact information. For more details on the audit scope and methodology see Appendix I.

We conducted this performance audit from June 2015 through February 2016 in accordance with 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.

## **Background**

The Resource Management Group (RMG), Office of Contracting Services (OCS) is responsible for Ex-Im Bank's procurement and contract activities and processes. The OCS plans, executes, manages, and closes out procurement actions for Ex-Im Bank, including its five regional offices. The procurement mission of OCS is to acquire and manage private sector capabilities to provide the best value for the Bank; provide timely and accurate guidance for internal customers and contractors; support contract opportunities for small businesses, minorities, and women; and ensure compliance with the FAR. According to the Bank, during FY 2014 and 2015, OCS was responsible for 616 and 565 awarded actions totaling approximately \$50 million and \$58 million, respectively. Furthermore, the Bank reported that as of September 2015, there were 144 contractors performing work on behalf of Ex-Im Bank compared to the 413 government employees working for the bank. Therefore, as of September 2015, contractor personnel represented 26 percent of the total number of personnel working for Ex-Im Bank.

Ex-Im Bank's OCS is approved for seven full time equivalent (FTE) government appointed positions with support from six contracted contract specialists. OCS was understaffed during the majority of our audit with only two FTEs. The vacant positions included the Chief Acquisition Officer (CAO), Deputy Chief Acquisition Officer (DCAO), and three Contracting Officers

---

<sup>1</sup> Ex-Im negotiated a firm-fixed price contract with a vendor to provide parking services with the provision to modify the contract to add a leased vehicle.

(COs). The ability of OCS to fill its vacancies and meet desired staffing levels was hampered due to the lapse<sup>2</sup> in the Bank's authorization. Nevertheless, the three CO positions have now been hired - one was hired and reported for duty on October 5, 2015 and the other two reported for duty on January 24, 2016. The Bank also began the hiring process for the CAO and after selection of the CAO, plans to recruit for the Deputy position. Additionally, OCS requested an additional FTE CO which will bring OCS to a total of eight FTEs. Finally, OCS plans to enter into an agreement with the Department of Interior's Business Center for a pilot program for outsourcing certain functions of the procurement process such as acquisition planning, sourcing and competition, legal review and compliance, and contract management.

## **Results**

### **Finding: OCS Does Not Have Adequate Internal Controls to Ensure Full Compliance with Federal Regulations and Appropriately Administer Contracts**

We determined that OCS does not have adequate internal controls to ensure Ex-Im Bank's contracting processes comply with federal contracting regulations. Specifically, we identified that: (1) OCS does not have a comprehensive set of written policies and procedures to ensure it follows sound contract processes in compliance with federal regulations; (2) many Bank employees do not understand the roles and responsibilities of contracting officers as outlined by the FAR; (3) CORs are not properly certified, trained and designated as required by the FAR; (4) OCS has not identified the specific contract characteristics or thresholds that would require the involvement of the Office of General Counsel (OGC) in the acquisition process and (5) contract data is not readily available.

Federal standards state that agency management and staff must ensure that government resources are used efficiently and effectively to achieve intended program results, in compliance with laws and regulations, and to minimize the potential for waste, fraud, and mismanagement. The Senior Vice President (SVP) of the RMG stated he was aware OCS lacked comprehensive policies including those policies establishing (1) overall contract procedures; (2) COR certification and training; and (3) the involvement of OGC where appropriate, but due to competing priorities and staffing constraints, was unable to develop these internal controls. As a result, we identified \$304,462 in questioned costs associated with duplicate payments made on one of the contracts we reviewed. We also identified \$117,083 in funds for better use related to unnecessary costs incurred for IT contractor training and interest paid on late contract payments. Further, we found instances of unauthorized commitments made by Bank employees and finally, both contract files we reviewed did not contain all the required documentation. The lack of internal controls also increases the risk that OCS is unable to meet the performance standards required by the FAR including (1) customer satisfaction in terms of the cost, quality, and timeliness of delivered products or services; (2) minimized administrative operating costs; (3) conducting business with integrity, fairness and openness; and (4) fulfilling public policy objectives adopted by Congress and the President. Furthermore, the lack of internal controls increases the risk of unauthorized and inappropriate contracts which violate governing

---

<sup>2</sup> The Bank's lapse in authorization occurred from July 1, 2015 to December 4, 2015.

regulations and create a high-risk environment for fraud, abuse, and the mismanagement of funds.

We made seven recommendations to correct the identified deficiencies and management concurred with all seven recommendations.

***OCS Does Not Have A Comprehensive Set of Written Policies and Procedures to Ensure It Follows Sound Contract Processes in Compliance with Federal Regulations***

OCS has not developed an official comprehensive set of written policies and procedures to govern the Bank's contracting processes including guidance for administering and monitoring contracts. GAO's *Standards for Internal Control in the Federal Government* states federal managers are responsible for developing the detailed policies, procedures, and practices necessary to achieve the desired results that support effective stewardship of public resources including reasonable assurance of compliance with applicable laws and regulations.

Instead of developing comprehensive written policies and procedures, OCS officials stated they relied on the FAR and the knowledge and experience of the COs and used procurement templates and checklists to guide the contracting process. We interviewed the COs and the SVP of the RMG and they agreed written policies and procedures should have been developed and that the lack of written policies has contributed to the Bank's inability to comply with all required federal regulations. The lack of policies and procedures contributed to the issues discussed in this report, including improper, duplicate and untimely payments; unauthorized commitments; and incomplete contract documentation.

As a result of our audit, OCS began drafting a full set of written policies and procedures and has completed two policy documents for immediate use - The *User Guide to Contracts* and the *COR Guide*. The *User Guide to Contracts* is a step-by-step guide outlining the procedures, work flows, responsibilities, and requirements for obtaining all contracted services. The *COR Guide* covers the responsibilities, duties, ethics, and training requirements, both pre-award and for monitoring contract performance, of those assigned to contracts as the COR. We did not audit these new policies, and accordingly, we have not determined if they are adequate to resolve the issues presented in this audit report.

***Many Bank Employees Do Not Understand the Roles and Responsibilities of a Contracting Officer as Outlined by the FAR***

According to OCS staff, the Contracting Officers have not been viewed by many Ex-Im Bank employees as authoritative figures needed to approve contracts. Rather, their role has too often been viewed as an after-the-fact administrative function used to legitimize unauthorized commitments. According to OCS staff, many Ex-Im Bank program managers believe that as long as they have money in their budgets, they can initiate spending without a contract. FAR 1.602-2 entitled, *Contracting Officers Responsibilities*, states the COs are responsible for safeguarding the interests of the United States in its contractual relationships and therefore, COs must ensure the Government does not enter into a contract until all requirements of law,

executive orders, regulations, and all other applicable procedures have been met and there are sufficient funds available for obligation.

During the audit we found instances where Bank employees initiated unauthorized commitments<sup>3</sup> which required OCS to create last minute contracts or modifications in order to legitimize the commitments. In one case, a Bank employee instructed a vendor to provide services for the Bank prior to contract award. In working with the program manager to take the necessary steps to ratify the action and approve payment to the vendor, the CO informed the responsible program manager that the instruction to the vendor constituted an unauthorized commitment. In response, the Bank program manager insisted there were no unauthorized services, demonstrating her lack of understanding of the CO's role in the contract process. We identified other instances of unauthorized commitments which are discussed below (see *Unauthorized Commitments Were Made That Had to Be Ratified.*)

Due to the lack of training or guidance from OCS on the Bank's contract processes and the services of OCS, Bank employees frequently entered into unauthorized commitments. While the majority of the unauthorized commitments we identified occurred under an existing contract, the unauthorized commitments put the Bank at risk of violating governing regulations and increase the risk of fraud and abuse. As we noted above, the Bank recently issued the *User Guide to Contracts*, which is a step-by-step guide outlining the procedures, work flows, responsibilities, and requirements for obtaining contracted services. We did not audit these new policies, and accordingly, we have not determined if they are adequate to resolve the issues presented in this audit report.

### ***Contract Officer's Representatives Are Not Properly Certified, Trained or Designated***

During our audit, we found that OCS did not ensure FAR requirements were met for those assigned COR responsibilities. The CORs were not properly certified and trained and the roles and responsibilities of CORs were not consistently designated in writing.

As part of the audit, OCS provided a listing of 470 active contracts as of September 2015, and the CORs assigned for each contract. The list provided by the Bank identified 74 different Bank employees assigned as CORs. While the Bank stated some of these individuals may have been Points of Contact versus official CORs, OCS only identified 8 Bank employees with the proper COR certification and only 3 had been certified within the last 2 years. For these CORs, we also noted that the Bank did not provide any continuous learning training to ensure that the CORs were adequately trained. OCS officials also informed the auditors that most of the Bank's contract files did not have the FAR required COR designation letters. We identified one Ex-Im Bank employee who was listed as a COR but was not aware of her COR designation and did not understand why she was being asked to sign invoices.

The lack of certification, training and designation of CORs occurred because OCS did not (1) develop a certification and training program and (2) develop written guidance outlining the

---

<sup>3</sup> FAR Section 1.602 – 3 entitled *Ratifications of unauthorized commitments* defines an unauthorized commitment as an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement.

requirements for COR designation. FAR section 1.602-2 states a COR shall be certified and qualified by training and experience commensurate with the responsibilities to be delegated. *Federal Acquisition Certification for CORs* dated September 6, 2011 established a three-tiered certification to ensure the COR is appropriately trained for the varying degrees of risk associated with a contract. Level I CORs require 8 hours of training, no previous contract COR experience and are generally assigned to a low-risk contract such as a supply contract or order. Level II CORs require 40 hours of training and one year of previous COR experience. This level of COR is appropriate for moderate to high complexity contracts. The Level III COR requires 60 hours of training and two years of previous COR experience. Level III CORs perform significant program management activities for the most complex and mission critical contracts. Finally, FAR section 1.602-2 states the COR shall be designated in writing and that copies of the designation shall be furnished to the contractor and the contract administration office.

The COs stated the lack of knowledgeable CORs was a significant problem for the Bank. According to the COs, some of the problems attributed to untrained CORs included inadequate contract oversight, an excessive number of ratifications<sup>4</sup> for unauthorized commitments, and unnecessary contract modifications. In one example, a firm fixed price contract required a last minute modification because the CO was not aware of cost over-runs until after an invoice was received and approved for payment by the COR. CORs assigned to execute and monitor contract activities without receiving proper certification, follow-up training, and appropriate designation increases the risk of unauthorized commitments which may violate governing regulations and guidance. It also creates a potentially high-risk environment for fraud, abuse, and the mismanagement of funds.

OCS officials agreed that the management of CORs needed improvement and immediately developed a training program to certify CORs for Level I, II and III certifications. As of January 2016, the Bank certified 29 Bank employees at Level I and 20 at Level II. As discussed above, OCS also recently developed a *COR Guide*. The *COR Guide* specifies that for each COR-supervised contract, the CO will specify the COR's responsibilities in a letter of COR designation.

***The OCS has not Identified Contract Characteristics or Thresholds that would Require the Involvement of the OGC in the Acquisition Process***

The OCS has not identified the specific contract characteristics or thresholds that would require the involvement of OGC in the acquisition process. Therefore, OCS has not appropriately obtained and documented legal advice for certain contracts. OCS staff stated the Bank has issued complex contracts that should have been reviewed by legal staff, but there is a lack of guidance for when a legal review should occur. As a result, such reviews have not been routinely performed and the Bank is more susceptible to contract disputes.

FAR section 1.602 – 2 requires the CO to request and consider the advice of specialists in audit, law, engineering, information security, transportation, and other fields, as appropriate and FAR

---

<sup>4</sup> FAR Section 1.602 – 3 entitled *Ratifications of unauthorized commitments* states “Ratification” means the act of approving an unauthorized commitment by an official who has the authority to do so.

section 4.8 requires evidence of legal review, where appropriate, to be included in the contract file. Further, FAR section 1.602 – 3 stipulates that a ratification of an unauthorized commitment may be exercised only when the CO recommends payment and legal counsel concurs with the recommendation unless agency procedures expressly do not require such concurrence. Finally, we benchmarked other federal agencies and found their acquisition policy manuals identify when a legal review is required.

The OCS has recognized this deficiency and has contacted OGC to establish legal reviews where appropriate and as a result, OGC established a liaison for the OCS. The OCS plans to draft a formal policy, but in the meantime the COs have been instructed to request legal advice on those contracts associated with best value negotiations, any contract needing ratification, and other larger procurements the COs believe should have a legal review. The OCS in conjunction with OGC plans to better define which contracts require legal review in their written policies and procedures.

### ***Contract Data is Not Readily Available***

The OCS does not have contract data readily available to evaluate whether the Bank's contracting program is able to maximize the value achieved from contracts and eliminate waste and abuse. During the audit, OCS was not able to provide the acquisition data requested to evaluate whether the Bank had an excessive number of high-risk contracts. Specifically, the OCS was unable to provide the audit team with requested acquisition data, including a listing of all contracts to determine the overall spending; the percentage of high-risk contracts, such as Time and Materials contracts; and whether the number of contracts had significantly increased or decreased. OCS staff stated the contract system, Comprizon, had the capability to produce the data we requested, but that OCS had not utilized Comprizon for this type of report and the staff resources needed to complete this audit request were not available at the time. OCS staff agreed they should be aware of the overall spending on contract services, including the percentage of high-risk contracts used by the Bank and whether these types of contracts were justified. By choosing the appropriate contract type, OCS can minimize contract risks while simultaneously achieving savings. By not properly maintaining accurate data, Ex-Im Bank is unable to provide assurance that federal acquisitions are awarded and distributed in a prompt, fair, and reasonable manner.

### **Internal Control Deficiencies Resulted in \$304,462 in Questioned Costs, \$117,083 in Funds for Better Use and Other Contract Administrative Issues**

As result of the identified control deficiencies, we found: (1) improper, duplicate and untimely payments; (2) unauthorized commitments; and (3) incomplete contract files.

### ***Questioned Costs of \$304,462 and Funds for Better Use of \$117,083***

One of the contracts we reviewed was for IT services. We found this contract was not monitored appropriately to ensure all payments were proper and made timely, which resulted in questioned costs of \$304,462 and funds for better use of \$117,083. Specifically, the Bank (1) erroneously made two duplicate payments totaling \$304,462; (2) incurred \$115,295 in unnecessary costs to

train IT contractors; and (3) did not make all payments to the contractor timely which resulted in \$1,788 in interest payments.

Duplicate payments totaling \$304,462: The Bank erroneously made two duplicate payments to a contractor - one for \$3,240 and one for \$301,222. Both overpayments were discovered by the contractor and an email was sent to OCS on October 2, 2015 requesting help to identify where the payment amounts should be applied. The contractor was confused by the payment amounts because they did not match their invoice amounts. The error on the larger duplicate payment was caused by the same invoice being entered into the system twice – once using the full invoice number and a second time using a partial invoice number. Interim procedures have since been implemented whereby staff has been instructed to always use the full invoice number. The error on the smaller payment occurred because the services were invoiced twice – once as part of a larger invoice and once as a separate invoice. OCS has recovered the \$301,222 from the contractor, but still needs to recover the \$3,240 duplicate payment.

Unnecessary Costs Related to IT Contractor Training: A COR allowed four contract employees to use government property (training credits) valued at \$53,300 to attend fourteen Cisco training classes. The training did not cover IT programs or applications that would be unique to Ex-Im Bank. Rather, the training was for standard Cisco IT applications and the contract employees attending these classes could use the knowledge acquired in the general market place. Additionally, the contractor billed \$61,995 for IT services performed by these individuals during the time the contract employees were in training.

Pursuant to the contract, the contractor was required to provide fully trained and experienced technical and lead personnel necessary for the performance of the contract. Training and certification of contractor personnel were required to be performed by the contractor at its own expense. The contractor was required to provide the training necessary to keep personnel knowledgeable of the technical areas they were responsible for and to keep them abreast of leading industry advances and technologies that were available on the commercial market. Proper COR certification, training and designation should help prevent such unnecessary costs in the future.

Untimely payments to the contractor: The Bank incurred avoidable interest penalties when it did not make timely payments to the contractor used for IT services. The Prompt Payment Act, Public Law 97-177 requires federal agencies to pay their bills on a timely basis and pay interest penalties when payments are made late. We reviewed 36 invoices paid during the invoice period of August 2013 through May 2015. Of the 36 invoices reviewed, we found all were appropriately approved prior to payment. However, at least 10 invoices were not paid timely and the Bank paid late payment penalties on all 10 invoices for a total of \$1,788 in funds for better use.

For these 10 invoices, we only had enough data to determine where the delay occurred for eight. Three were the result of accounting errors, three resulted from both accounting errors and a delayed approval by the COR, and two were caused solely by the delayed approval of the COR. The newly issued *COR Guide* should provide guidance about the timely approval of invoices and

the Bank plans to implement the Department of Treasury's Invoice Processing Platform (IPP)<sup>5</sup> by April 1, 2016 to address delays in vendor payments.

### ***Unauthorized Commitments Were Made That Had To Be Ratified***

The OCS personnel stated there have been many instances of unauthorized commitments whereby OCS was not involved in the acquisition until an invoice was received or the vendor was already directed to begin work. As a result, OCS was required to legitimize these unauthorized commitments by creating a last minute contract or modification. FAR Subpart 1.602 – 3, entitled, *Ratification of unauthorized commitments*, states agencies should take positive action to preclude, to the maximum extent possible, the need for ratification actions and that while the FAR outlines the procedures that are used to ratify an unauthorized commitment, these procedures may not be used in a manner that encourages such commitments being made by Government personnel. While the majority of the unauthorized commitments we identified occurred after initial contracts were already in place, unauthorized commitments violate governing regulations and create the increased potential for fraud and abuse. The following are examples of unauthorized commitments that occurred because Bank employees did not understand the roles and responsibilities of the COs:

- One requisition for \$7,000 was received by OCS on June 16, 2015 and certified as funded on June 17, 2015. However, a Bank employee contacted the vendor on May 26, 2015 to solicit services and on June 5, 2015 this employee instructed the vendor to move forward with the services to be provided to the Bank.
- For another contract in the amount of \$342,820, the services were performed from May 16 – 29, 2015; however, funding for the contract was not certified until June 22, 2015.

The OCS personnel stated the Bank's process for ratifications should include tough consequences to Bank staff that initiate unauthorized commitments. The SVP of RMG stated he was not aware of the problem with unauthorized commitments, but agreed a policy for the offenders of unauthorized commitments should be communicated. Recently, OCS completed two policy documents for immediate use that discuss Ex-Im's policy on unauthorized commitments - *The User Guide to Contracts* and the *COR Guide*. The *COR Guide* states that the consequences for all parties involved with an unauthorized commitment are severe and that the COR may be held personally liable for any costs or damages. Further, this guidance states any flagrant or repetitive violations may result in disciplinary or administrative action.

### ***Contract Files Did Not Contain All Required Documentation***

We reviewed two contract files and found that contract documentation was not sufficient to document all contractual actions as required by the FAR. Specifically, we found the following documentation missing from the contract files: (1) required justifications for the lease of a luxury

---

<sup>5</sup> On July 17, 2015, the Office of Management and Budget (OMB) released a memorandum directing federal agencies to transition to electronic invoicing by the end of FY 2018, to improve government effectiveness and transparency, while reducing administrative work and costs.

vehicle; (2) performance documents and timesheets required for a time and materials contract; and (3) an approved certification of funds.

Required Justifications for the Lease of a Luxury Vehicle: Ex-Im negotiated a firm-fixed price contract with a vendor to provide parking services and later modified this contract to add the lease of a “luxury” vehicle for transportation of the head of the agency and agency staff. The original contract was awarded in August 2014 and the vehicle was received and payments to the contractor began in January 2015 when the Bank’s lease on another vehicle was coming to an end. Nevertheless, the contract was not formally modified for the vehicle lease until September 2015. The total amount of the vehicle lease was \$75,622 and was to be paid monthly during the base year of the contract modification plus four one-year option periods. This amount included costs to reimburse the vendor for insurance. A down payment of \$9,989 was made and the remainder was to be paid monthly over the 58 month lease period (\$1,131.61 per month). The monthly payment includes \$312.50 per month for insurance.

We found that the modification documentation to justify the leased vehicle was not in the file. The OCS stated the justification was not completed as required, but it prepared and provided a justification during the audit. This justification, however, did not address why this particular vehicle was “essential” to the Bank’s mission. FAR Subpart 8.11 entitled, *Leasing of Motor Vehicles* requires the contracting officer prior to preparing a solicitation to obtain a written statement that the requested passenger vehicle; if larger than a small, subcompact, or compact; is essential to the agency’s mission. During our review of the documentation supporting the contract modification, we also identified questions and concerns related to (1) the costs of leasing the vehicle through a private vendor rather than the General Services Administration in terms of the base cost of the car, gas, maintenance, repairs, etc.; and (2) the costs paid to the contractor for private insurance when the federal government is self-insured. Due to these concerns, we are continuing to examine this procurement and will issue a supplemental report as warranted.

Missing Performance Documents and Timesheets for a Time and Materials Contract: For the IT support services time and materials contract, we found the following documents missing from the file: (1) a complete set of invoices with corresponding timesheets and (2) the Yearly Report, Annual Self-Evaluation and Monthly Financial Status Reports.<sup>6</sup> Finally, we could not find a contract monitoring plan documented in the file to demonstrate how the IT support services contract was monitored. The contractor stated the required Weekly Summary and Monthly Summary Reports were submitted, but the Yearly Report, Self-Evaluation, or Monthly Financial Status Reports were not submitted because they were not aware of this requirement. The COR stated he did not develop a contract monitoring plan, but agreed having a plan in place would have made oversight over the contract easier and that he would have been aware that certain performance documents were missing.

Missing Approved Certification of Funds: The contract file for IT support services did not include an approved certification of funds. Pursuant to FAR Subpart 4.8 entitled, *Government Contract Files* states, the head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions that shall be

---

<sup>6</sup> These reports were specified in the contract, Attachment 1 entitled, *Administrative Matters, Terms and Conditions*.

sufficient to constitute a complete history of the transaction. The contents of contract files should include (1) justifications and approvals, determinations and findings, and associated documents; (2) evidence of the availability of funds; (3) justification for the contract type; and (4) required approvals of award and evidence of legal review.

When contract documentation is missing from a file, there is no assurance the contract was issued in compliance with federal regulations. Further, the Bank cannot be assured the contract was properly monitored and that the contracted services were actually received.

## **CONCLUSION**

Federal standards state that agency management and staff must ensure that government resources are used efficiently and effectively to achieve intended program results, in compliance with laws and regulations, and to minimize the potential for waste, fraud, and mismanagement. To accomplish appropriate management of federal resources, agency management has a fundamental responsibility to develop and maintain an effective internal control environment.

The lack of internal controls increases the risk that OCS is unable to meet the performance standards required by the FAR including (1) customer satisfaction in terms of the cost, quality, and timeliness of delivered products or services; (2) minimized administrative operating costs; (3) conducting business with integrity, fairness and openness; and (4) fulfilling public policy objectives adopted by Congress and the President. Furthermore, the lack of internal controls increases the risk of unauthorized contracts which violate governing regulations and create a high-risk environment for fraud, abuse, and the mismanagement of funds.

## **Recommendations, Management Comments and OIG Response:**

To improve Ex-Im's Bank's contract services program, the Senior Vice President of the Resource Management Group should:

1. Develop a comprehensive set of written policies and procedures for the Export Import Bank's acquisition services to ensure contracts are administered and monitored in accordance with the FAR.

### **Management Comments**

Management agrees with this recommendation. The Office of Contracting Services has adopted and put in place four new policy and guidance documents to govern the Bank's contracting processes. The OCS also recently hired a Contracting Officer with extensive experience in procurement policy, exclusively dedicated to develop a comprehensive set of written policies tailored to Ex-Im Bank's mission as well as an Agency supplement to the FAR.

### **OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

2. Provide training and written guidance to Ex-Im Bank employees on the roles and responsibilities of Contracting Officers and the process and procedures for using the services of OCS, including procedures to hold Bank employees accountable for entering into unauthorized commitments.

**Management Comments**

Management agrees with this recommendation. The Bank provided mandatory COR training for all designated CORs in a series of sessions from November, 2015 through February, 2016. Additionally, OCS is working with the Federal Acquisition Institute (FAI) to obtain Federal Acquisition Certification FAC-COR certification for CORs. FAI's certification complies with federal standards and is recognized government-wide.

Further, the recently circulated COR guide provides written guidance to Ex-Im Bank employees and covers COR responsibilities, duties, ethics, and training requirements, both pre-award and for monitoring contract performance. The COR Guide was included as a topic of instruction during COR training, offering employees the opportunity to apply general COR instruction to Ex-Im Bank's rules and regulations.

**OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions

3. Develop a comprehensive set of written policies and procedures for the certification, training and designation of Contracting Officer Representatives.

**Management Comments**

Management agrees with this recommendation. The Policy Development Plan for FY 2016 includes written policies and procedures regarding COR training requirements and certification by FAI. As mentioned above, the Bank is working with FAI to obtain the Federal Acquisition Certification FAC-COR for designated CORs.

**OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions

4. In conjunction with the Office of General Counsel, develop policies and procedures that identify the specific contract characteristics or thresholds that would require the involvement of OGC in the acquisition process.

**Management Comments**

Management agrees with this recommendation. OCS will revise the User Guide to include guidance and procedures for the characteristics and thresholds that would require the involvement of OGC. Specific guides for the involvement and role of the General Counsel are planned to include best value awards, urgent and compelling and sole source contracts, review and approval of ratifications, and award protests.

**OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

5. Ensure contract data is maintained and readily available for third party review.

**Management Comments**

Management agrees with this recommendation. The OCS and the Business Center Office (BC) are working with the Information Management and Technology (IMT) division and the Bank's Oracle contractor to improve Procurement Software (Comprizon) capabilities for data management and reporting. A series of Change Requests (CRs) are currently in place to develop a mechanism to guarantee data integrity and reliability. Additionally, a policy on Contract File Maintenance and Documentation is included in the Policy Development Plan for FY 2016.

**OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions

6. Recover the duplicate payment of \$3,240 from the vendor.

**Management Comments**

Management agrees with this recommendation. The Bank has recovered the duplicate payment of \$3,240 from the vendor.

**OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions

7. Develop a process and/or procedures to prevent erroneous contract payments and inaccurate recording of invoice payment information.

**Management Comments**

Management agrees with this recommendation. The Office of Resource Management (RM) recently created a Business Center Office responsible for contracting management and business processes. The BC will develop procedures to prevent erroneous contract payments and inaccurate recording of invoice payment information. Furthermore, the BC is leading the implementation and deployment of the Department of Treasury's Invoice Processing Platform (IPP). The project is moving ahead, scheduled to go live with participating vendors by April 1, 2016.

In addition, BC is conducting internal audits to make sure all invoices (submitted via mail, e-mail, through CORs etc.) are electronically filed and stamped as a mechanism to prevent inaccurate recording of payment information. The Oracle contractor is developing reporting tools to support internal controls.

**OIG Response**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions

Management's comments are included in their entirety in Appendix II.

## **Appendix I: Scope and Methodology**

The objective of this audit was to determine whether Ex-Im Bank's contracting processes were in compliance with federal regulations and guidance, and the Bank's contract administration policy.

To answer our objective, we reviewed applicable regulations and guidance, including the Federal Acquisition Regulation (FAR), GAO's *Standards for Internal Control in the Federal Government*, The Prompt Payment Act, and Office of Management and Budget guidance related to contracting. We also interviewed officials from Ex-Im Bank's Office of Contracting Services (OCS) to gain an understanding of the Bank's contracting processes. In addition, we consulted with our Office of Investigations and Office of Inspections and Evaluations.

Additionally, we judgmentally selected and reviewed two contract files based on concerns related to contract usage and oversight that were brought to our attention by Ex-Im Bank employees. One contract was a \$2.4 million time and materials contract for Information Technology (IT) services and the other was a \$166,244 fixed price contract for parking services. Both contracts had one-year terms with four one-year option periods. We interviewed the Contracting Officer's Representatives (CORs) assigned to these contracts and also attempted to interview the former, now retired, Chief Acquisition Officer, but the Bank was unable to provide his contact information.

We conducted this performance audit from June 2015 through February 2016 in accordance with 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.

### **Review of Internal Controls**

We reviewed and evaluated the internal controls associated with Ex-Im Bank's contracting services program. We found that improvements can be made to ensure the efficiency and effectiveness of the program. Our recommendations, if implemented, should correct the weaknesses we identified.

## Appendix II: Management Comments



EXPORT-IMPORT BANK  
OF THE UNITED STATES

---

March 22, 2016

Michael McCarthy  
Deputy Inspector General  
Office of the Inspector General  
Export-Import Bank of the United States  
811 Vermont Avenue NW  
Washington, DC 20571

Dear Deputy Inspector General McCarthy,

Thank you for providing the Export-Import Bank of the United States ("EXIM" or "the Bank") management with the Office of the Inspector General's (OIG) "Audit of the Export-Import Bank's Contracting Processes" (A-15-005-00, February 29, 2016) ("Contracting Audit"). The Bank continues to support the OIG's work, which complements the Bank's efforts to continually improve its processes. The Bank is proud of the strong and cooperative relationship it has with the OIG.

Management appreciates OIG's belief that the Bank's newly-drafted policies and procedures are "responsive to the OIG's findings and will improve the Bank's contracting processes" as well as OIG's acknowledgment of the Bank's newly-developed training program to certify Contracting Officer Representatives (CORs), and the Bank's collaboration between the Office of Contracting Services (OCS) and the Office of General Counsel (OGC).

Management further appreciates OIG's recognition that during the majority of the audit's duration the OCS was understaffed, to include the vacant positions of the Chief Acquisition Officer, Deputy Chief Acquisition Officer, and three Contracting Officers; and that it was challenging to successfully recruit the best-qualified candidates during the five-month lapse in the Bank's full authority.

The Bank is committed to full cooperation with the OIG and will work with staff on implementing all seven recommendations that resulted from this audit. In order to improve EXIM Bank's contracting services program, the OIG has made the following recommendations to the Senior Vice President of Resource Management:

Recommendation 1: Develop a comprehensive set of written policies and procedures for the Export-Import Bank's acquisition services to ensure contracts are administered and monitored in accordance with FAR.

Management agrees with this recommendation. Office of Contracting Services has adopted and put in place the following four new policy and guidance documents to govern the Bank's contracting processes:

1

---

811 VERMONT AVENUE, N.W. WASHINGTON, D.C. 20571

- 
- a. **User Guide to Contracts.** This is a step-by-step guide with procedures, work flows, responsibilities and requirements for obtaining all contracted services (other than credit cards).
  - b. **COR guide.** This guide covers COR responsibilities, duties, ethics, and training requirements, both pre-award and for monitoring contract performance.
  - c. **Purchase Card Policy.** This policy guide details the appropriate use and rules and regulations of the purchase card program under GSA.
  - d. **Charge Card Management Plan.** This document identifies key management officials and establishes required safeguards and internal controls for the Charge Card Management Plan. In compliance with OMB Circular 123, Appendix B, the Bank submitted an updated Charge Card Management Plan for FY 2016 before January 30, 2016.

OCS recently hired a Contracting Officer with extensive experience in procurement policy, exclusively dedicated to develop a comprehensive set of written policies tailored to EXIM's mission as well as an Agency supplement to the FAR.

Recommendation 2: Provide training and written guidance to EXIM Bank employees on the roles and responsibilities of Contracting Officers and the process and procedures for using the services of OCS, including procedures to hold Bank employees accountable for entering into unauthorized commitments.

Management agrees with this recommendation. The Bank provided mandatory COR training for all designated CORs in a series of sessions from November, 2015 through February, 2016. A Total of 64 employees have received COR certification (Level I and Level II, 39 and 25 employees respectively). Additionally, OCS is working with the Federal Acquisition Institute (FAI) to obtain Federal Acquisition Certification FAC-COR certification for CORs. FAI's certification complies with federal standards and is recognized government-wide.

In addition, the recently circulated COR guide provides written guidance to EXIM employees and covers COR responsibilities, duties, ethics, and training requirements, both pre-award and for monitoring contract performance. The COR Guide was included as a topic of instruction during COR training, offering employees the opportunity to apply general COR instruction to EXIM's rules and regulations.

Recommendation 3: Develop a comprehensive set of written policies and procedures for the certification, training and designation of Contracting Officer Representatives.

Management agrees with this recommendation. The Policy Development Plan for FY2016 includes written policies and procedures regarding COR training requirements and certification by FAI. As mentioned above, the Bank is working with FAI to obtain the Federal Acquisition Certification FAC-COR for designated CORs.

Recommendation 4: In conjunction with the Office of General Counsel, develop policies and procedures that identify the specific contract characteristics or thresholds that would require the involvement of OGC in the acquisition process.

---

Management agrees with this recommendation. OCS will revise the User Guide to include guidance and procedures for the characteristics and thresholds that would require the involvement of OGC. Specific guides for the involvement and role of the General Counsel are planned to include best value awards, urgent and compelling and sole source contracts, review and approval of ratifications, and award protests.

Recommendation 5: Ensure that contract data is maintained and readily available for third party review.

Management agrees with this recommendation. OCS and the Business Center Office (BC) are working with the Information Management and Technology (IMT) division and the Bank's Oracle contractor to improve Procurement Software (Comprizon) capabilities for data management and reporting. A series of Change Requests (CRs) are currently in place to develop a mechanism to guarantee data integrity and reliability.

Additionally, a policy on Contract File Maintenance and Documentation is included in the Policy Development Plan for FY 2016.

Recommendation 6: Recover the duplicate payment of \$3,240 from the vendor.

Management agrees with this recommendation. The Bank has recovered the duplicate payment of \$3,240 from the vendor.

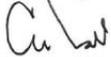
Recommendation 7: Develop a process and /or procedures to prevent erroneous contract payments and inaccurate recording of invoice payment information.

Management agrees with this recommendation. The Office of Resource Management (RM) recently created a Business Center Office responsible for contracting management and business processes. BC will develop procedures to prevent erroneous contract payments and inaccurate recording of invoice payment information. Furthermore, the BC is leading the implementation and deployment of the Department of Treasury's Invoice Processing Platform (IPP). The project is moving ahead, scheduled to go live with participating vendors by April 1, 2016.

In addition, BC is conducting internal audits to make sure all invoices (submitted via mail, e-mail, through CORs etc.) are electronically filed and stamped as a mechanism to prevent inaccurate recording of payment information. The Oracle contractor is developing reporting tools to support internal controls.

We thank the OIG for your efforts to ensure the Bank's policies and procedures continue to improve, as well as the work you do with us to protect EXIM funds from fraud, waste, and abuse. We look forward to strengthening our working relationship and continuing to work closely with the Office of the Inspector General.

Sincerely,



Charles J. Hall

Executive Vice President and Chief Operating Officer  
Export-Import Bank of the United States



**Office of Inspector General**  
**Export-Import Bank *of the* United States**  
**811 Vermont Avenue, NW**  
**Washington, DC 20571**  
**202-565-3908**  
**[www.exim.gov/oig](http://www.exim.gov/oig)**