

Bureau of Consumer Financial Protection

The Bureau Could Have Better Managed Its GMMB Contract and Should Strengthen Controls for Contract Financing and Contract Management



Office of Inspector General
Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection



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Executive Summary, 2018-FMIC-C-011, June 20, 2018

The Bureau Could Have Better Managed Its GMMB Contract and Should Strengthen Controls for Contract Financing and Contract Management

Findings

The Bureau of Consumer Financial Protection (Bureau) competitively awarded the GMMB blanket purchase agreement (BPA) and performed technical and price reasonableness evaluations in compliance with the *Federal Acquisition Regulation* (FAR). However, the Bureau can improve controls to help ensure compliance with the FAR and internal policies and procedures. Specifically, the Office of the Chief Procurement Officer did not comply with the FAR requirements for contract financing and annual BPA reviews. Complying with contract financing requirements and fully conducting and documenting annual BPA reviews could help ensure and provide evidence that contracts awarded or option periods exercised are in the best interest of the government and that the Bureau administers its contracts in compliance with the FAR.

In addition, the program office involved with the BPA did not timely communicate with the Office of the Chief Procurement Officer about the use of contract financing, did not properly monitor the liquidation of prepaid media purchases, and did not verify actual expenses using source documents. Properly managing contracts is essential for overseeing the financial and general performance of the contract and can help reduce both the likelihood of improper payments and the Bureau's vulnerability to fraud, waste, and abuse.

Recommendations

Our report contains recommendations designed to strengthen the Bureau's controls over its contracting processes. Specifically, our recommendations include enhancing existing policy and associated training to ensure compliance with contract financing and annual BPA review requirements as well as contract management practices. In its response to our draft report, the Bureau concurs with our recommendations and describes actions that have been or will be taken to address our recommendations. We will follow up to ensure that the recommendations are fully addressed.

Purpose

The objective of this audit was to assess the Bureau's compliance with applicable laws, regulations, and internal policies and procedures related to the award and management of its contract with GMMB for advertising and marketing services.

Background

In August 2013, the Bureau awarded a BPA to GMMB from the U.S. General Services Administration's Federal Supply Schedule for Advertising and Integrated Marketing Services. The Bureau originally estimated spending \$11.5 million over 5 years. From August 2013 to February 2018, however, the Bureau obligated \$43.8 million through 22 task orders under the BPA. We sampled and assessed 6 of these task orders and the related invoices, which totaled \$36 million in obligations and \$31.1 million in payments.



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Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection

Recommendations, 2018-FMIC-C-011, June 20, 2018

The Bureau Could Have Better Managed Its GMMB Contract and Should Strengthen Controls for Contract Financing and Contract Management

Finding 1: The Procurement Office Can Improve Controls for Contract Financing and Annual BPA Reviews

Number	Recommendation	Responsible office
1	Enhance existing policy and associated training to address contract financing and annual BPA review requirements.	Office of the Chief Procurement Officer

Finding 2: The Program Office Can Improve Contract Management

Number	Recommendation	Responsible office
2	Request and review all source documents for media purchases and labor-hour charges to verify the accuracy of the liquidation of contract financing and labor-hour invoices prior to closing out the GMMB BPA.	Division of Consumer Education and Engagement
3	Enhance existing policy to provide additional support for CORs managing complex contracts.	Office of the Chief Procurement Officer
4	Update invoice clauses and contract financing clauses in future contracts to explicitly state the requirements for payment support.	Office of the Chief Procurement Officer
5	Enhance COR training by emphasizing the importance of reviewing source documents to support payments.	Office of the Chief Procurement Officer
6	Develop and implement procedures for requiring CORs to use an invoice review checklist.	Office of the Chief Procurement Officer
7	Expand the semiannual review of COR files to review support for approved payments.	Office of the Chief Procurement Officer



Office of Inspector General

Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection

MEMORANDUM

DATE: June 20, 2018

TO: Katherine Fulton
Acting Chief Operating Officer and Acting Associate Director, Operations Division
Bureau of Consumer Financial Protection

FROM: Melissa Heist *Melissa Heist*
Associate Inspector General for Audits and Evaluations

SUBJECT: OIG Report 2018-FMIC-C-011: *The Bureau Could Have Better Managed Its GMMB Contract and Should Strengthen Controls for Contract Financing and Contract Management*

We have completed our report on the subject audit. We conducted this audit to assess the Bureau of Consumer Financial Protection’s compliance with applicable laws, regulations, and internal policies and procedures related to the award and management of its contract with GMMB for advertising and marketing services.

We provided you with a draft of our report for review and comment. In your response, you outline actions that have been or will be taken to address our recommendations. We have included your response as appendix B to our report.

We appreciate the cooperation that we received from the Operations Division and from the Division of Consumer Education and Engagement. Please contact me if you would like to discuss this report or any related issues.

cc: Sheila Greenwood, Policy Associate Director, Division of Consumer Education and Engagement
Gail Hillebrand, Associate Director, Division of Consumer Education and Engagement
David Gragan, Chief Procurement Officer and Assistant Director, Office of the Chief Procurement Officer
Christopher Johnson, Assistant Director, Office of Consumer Response
Jeffrey Sumberg, Chief Human Capital Officer and Assistant Director, Office of Human Capital
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Introduction

Objective

The objective of this audit was to assess the Bureau of Consumer Financial Protection's (Bureau) compliance with applicable laws, regulations, and internal policies and procedures related to the award and management of its contract with GMMB for advertising and marketing services.

To accomplish our objective, we reviewed the blanket purchase agreement (BPA) with GMMB, including the exercise of the four 12-month option periods and 6 of 22 executed task orders. These 6 task orders total \$36 million, or 82 percent of the obligated funds for the 22 task orders under the BPA. Details on our scope and methodology are in appendix A.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established the Bureau to regulate the offering and provision of consumer products or services under federal consumer financial laws.¹ The Dodd-Frank Act requires the Bureau to develop and implement initiatives intended to educate and empower consumers to make better-informed decisions.² To help fulfill this statutory mandate, the Bureau decided to issue a BPA to a vendor listed on the U.S. General Services Administration's (GSA) Federal Supply Schedule for assistance in developing a marketing strategy to reach targeted audiences, executing the advertising services, and measuring the results.

Overview of BPAs and Contract Financing

BPAs and Task Orders

In accordance with the *Federal Acquisition Regulation* (FAR), agencies may establish BPAs as a vehicle or acquisition strategy to fill anticipated repetitive needs for supplies or services. BPAs promise no minimum or maximum guarantee for the quantity of services ordered under the BPA, and no funds are obligated at the time a BPA is established. When needs arise and funding is available, the agency can make a purchase by placing a task order against the BPA, thereby creating a contract obligating the seller to furnish the supplies or services stipulated in the contract and obligating the buyer to pay for them.

The FAR allows agencies to award single- or multiple-award BPAs. The number of BPAs to be established is at the discretion of the agency and should be based on a strategy that is expected to maximize the effectiveness of the BPA.³ The agency should consider several factors, including the benefits of ongoing

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

² 12 U.S.C. § 5493(d).

³ U.S. General Services Administration, *Blanket Purchase Agreements (BPAs) and the GSA MAS Program*, Student Guide.

competition, when deciding whether a single- or multiple-award BPA is appropriate and document the decision in the acquisition plan or BPA file.⁴

The benefits of BPAs include leveraging buying power, saving administrative time, and reducing paperwork. In addition, a BPA established under any GSA schedule contract is considered to be issued using full and open competition, and GSA has already established that the labor rates in the schedule contract are fair and reasonable. Although schedule rates are fair and reasonable, the FAR requires agencies to conduct a technical evaluation and consider the level of effort and mix of labor proposed to perform the work to ensure that the total price is reasonable.

Commercial Contract Financing

The FAR explains that financing a contract is normally the contractor's responsibility but that contract financing by the buyer is commercial practice in some markets. *Contract financing* occurs when payment is made to a contractor prior to the acceptance of supplies or services. When contract financing is used, the contracting officer (CO) may include appropriate financing terms in contracts for commercial purchases when doing so will be in the best interest of the government. Commercial contract financing payments include commercial advance or interim payments. A *commercial advance payment* is given to the contractor when no work has been done, whereas a *commercial interim payment* is given to the contractor after some work has been done.

The benefit to the buyer of contract financing should be reflected in either a lower price or contract terms that are more beneficial to the government. Adequate new consideration is required for changes to, or the addition of, contract financing after the contract is awarded.

Federal Requirements and Bureau Guidance

The FAR is the primary regulation guiding federal executive agencies in their acquisition of supplies and services with appropriated funds. The FAR incorporates the requirements and principles of numerous statutory authorities and provides uniform acquisition policies and procedures with which most federal agencies must comply. Although the Bureau has determined that it is not required to follow the FAR in its entirety, the agency has made a policy decision to conduct its procurements in accordance with the FAR.

The FAR includes a subsection specific to the award and use of a GSA schedule BPA.⁵ This FAR subsection includes requirements that agencies

- document acquisition planning activities, including justification for awarding single- or multiple-award BPAs
- obtain responses from three schedule contractors or make a special determination as to why three contractors cannot meet the needs of the agency

⁴ An *acquisition plan* is a document that addresses all the technical, business, management, and other significant considerations that will control the acquisition. The acquisition plan integrates the efforts of all personnel responsible for significant aspects of an acquisition to ensure that the government meets its needs in the most effective, economical, and timely manner.

⁵ FAR 8.405-3.

- fairly consider and evaluate all quotes and ensure that the award is made in accordance with the selection criteria in the solicitation
- conduct annual BPA reviews, which includes determining whether the BPA still represents the best value to the agency⁶
- consider the level of effort and the mix of labor proposed to perform a specific task, and determine that the total price is reasonable on task orders issued against the BPA

The FAR also includes a subpart specific to the use of commercial contract financing.⁷ This subpart includes, among other things, requirements that agencies ensure

- the form of contract financing is in the best interest of the government
- adequate security is obtained
- liquidation provisions are coordinated with the payment office
- the financing terms are included in the solicitation and the resulting contract

In addition to the FAR, the Bureau has established policy and guidance for various aspects of procurement and contract management processes, including

- the *Policy for Acquisition Planning*, which establishes requirements for documenting the acquisition planning process and includes various templates related to the acquisition package
- the *Procurement Review Threshold Policy*, which establishes tier and legal review thresholds for various contract actions
- the *Investment Review Board Charter*, which documents responsibilities for ensuring that all business and technology investment decisions align with the Bureau's mission, vision, strategic goals, and program management best practices and achieve maximum return on investment
- the *Desk Guide for CORs and Invoice Approvers*, which helps contracting officer's representatives (CORs) properly order and account for goods and services, estimate known and potential billings, process invoices, and close contracts in accordance with the FAR
- the *Office of Procurement Certification Handbook*, which is designed to aid the contracting workforce in better supporting the Bureau's operations, explain Bureau policies, and outline what authority and responsibilities come with being assigned as a CO or COR on a government contract

Roles and Responsibilities for Awarding and Managing Contracts

The Office of the Chief Procurement Officer (Procurement Office) oversees purchasing for the Bureau. Procurement Office staff include COs, who are responsible for ensuring the performance of all necessary

⁶ The FAR defines *best value* as the expected outcome of an acquisition that, in the government's estimation, provides the greatest overall benefit in response to the requirement.

⁷ FAR 32.2.

contract actions, including soliciting, awarding, and terminating contracts. The FAR states that COs should be allowed wide latitude to exercise business judgment but must ensure that contract actions meet all requirements of laws, regulations, and applicable agency policies and procedures.⁸ COs have the sole authority to enter into, administer, and terminate contracts.

The Procurement Office collaborates with program offices across the Bureau's divisions to assign, train, and use program office personnel with subject-matter expertise as CORs. COs are responsible for appointing CORs with the relevant technical knowledge and level of qualification to specific contracts. The Bureau's COR desk guide lists several of their responsibilities, including

- reviewing, approving, or rejecting invoices
- monitoring the contractor's performance in terms of quality of work
- monitoring costs in comparison to the independent government cost estimate
- tracking financial performance to ensure that costs are consistent, allowable, and reasonable for the contract and work being provided

The Bureau certifies CORs at three levels, and the complexity of the contract being managed determines the required certification level of the designated COR (table 1). The higher levels of COR certification require more extensive initial training and experience. CORs at all certification levels must meet continuing education requirements to remain certified.

⁸ FAR 1.602.

Table 1. COR Qualification Requirements by Contract Type and Complexity Level

COR level	Contract type	Complexity level	Requirements
Level I	Firm-fixed-price contracts with basic provisions (i.e., purchase orders, task orders, and delivery orders)	Contracts are low risk; oversight is confined to basic inspection and acceptance.	No experience and 8 hours of training to become certified; 8 hours of continuous learning every 2 years to maintain certification.
Level II	Level I contracts plus labor-hour and time-and-materials contracts	Contracts are moderately to highly complex; project management activities are required; contract could have serious impact on mission; continuous oversight or technical direction is required.	One year of experience and 40 hours of training to become certified; 40 hours of continuous learning every 2 years to maintain certification.
Level III	All contract types	Contracts are highly complex and are the most mission critical; significant program management activities are required; major investments are involved.	Two years of experience and 60 hours of training to become certified; 40 hours of continuous learning every 2 years to maintain certification.

Source. *Office of Procurement Certification Handbook*.

The Bureau’s Contract With GMMB

Blanket Purchase Agreement

In May 2013, the Bureau issued a solicitation to eight contractors on the GSA schedule for commercial Advertising and Integrated Marketing Solutions.⁹ These eight contractors were selected because the Bureau believed, based on market research, that they had the capabilities the Bureau sought. The Bureau received timely responses from four contractors, which were evaluated in two steps, as outlined in the Bureau’s solicitation. First, the Bureau’s evaluation team evaluated contractors’ submitted proposals on nonprice factors such as expertise and management and staffing plans. Those contractors found to be acceptable moved on to the second evaluation step. During this step, the Bureau’s evaluation team assessed contractors’ technical approach through oral presentations and evaluated price reasonableness through comparisons to an independent government cost estimate.¹⁰ The Bureau’s solicitation also

⁹ The GSA schedule includes volume-discounted Advertising and Integrated Marketing Solutions to help agencies that need assistance educating the public to develop and implement a comprehensive media plan. Contractors offering services on the GSA schedule have already been vetted by GSA.

¹⁰ The *independent government cost estimate* is the program office’s estimate of the cost of contract performance and should address the full cost of anticipated performance; the basis of all estimates and any assumptions; an estimate of labor hours and rates for anticipated categories of contract labor; an estimate of costs for materials, travel, and subcontracting; and other costs.

stated that the Bureau would make a best-value determination and that it considered technical merit more important than price.

The Bureau's evaluation team determined and documented that GMMB collaborated effectively as a team, demonstrated an understanding of the Bureau's brand, and demonstrated a solid marketing strategy. In addition, the Bureau documented that GMMB was the only contractor rated as *acceptable* or higher under all nonprice factors, was rated *good* overall, and submitted the only quote eligible for award based on the technical factors. The Bureau conducted tier and legal reviews in accordance with policy and in August 2013 awarded a single-award BPA to GMMB for one 12-month base period and four 12-month option periods. In its acquisition plan, the Bureau justified that a single-award BPA would allow the Bureau to be more efficient and effective by centralizing knowledge of the Bureau's written and design style guidelines with a single agency.¹¹ The Bureau also negotiated labor rates discounted from the GSA schedule for 4 of the 5 years of the BPA. The discount gradually decreased each year until year 5, which was not discounted.

Task Orders

The Bureau originally estimated that it would spend \$11.5 million over the 5-year period. However, from August 2013 to February 2018, the Bureau obligated \$43.8 million through 22 task orders. Bureau officials informed us that the initial estimate was based on a preliminary assessment of the agency's needs, but those needs expanded over time. Bureau officials indicated that even though the agency exceeded the initial estimate, BPAs do not have a maximum value, so the agency was able to continue using the GMMB BPA without recompeting a new BPA. Although the BPA did not have a maximum value, each task order awarded under the BPA included a not-to-exceed amount.

Further, prior to award, applicable task orders were reviewed and approved by the Bureau's Investment Review Board (IRB) in accordance with the IRB charter.¹² The IRB is the executive advisory body responsible for ensuring that investments support the Bureau's mission and achieve the maximum return on investment. The IRB comprises the agency's Chief Financial Officer, Chief Operating Officer, Senior Procurement Executive, and other senior executives.

Also prior to award, the program offices requesting services evaluated each task order for technical approach and labor mix and level of effort to determine price reasonableness in accordance with the FAR. The Bureau issued task orders that were priced using three methods: (1) firm-fixed price, in which the contractor is paid a fixed amount for labor regardless of how many hours are expended; (2) other direct cost, in which the contractor is reimbursed for expenses; and (3) labor hour, in which the contractor has a not-to-exceed contract value that may be adjusted if estimated hours are different from actual hours. The value of individual task orders ranged from \$68,000 to \$14.8 million, and the task orders were firm-fixed price, labor hour, other direct cost, or any combination of these types. The majority of the funds were obligated under task orders that included a combination of labor hour and other direct cost structures.

¹¹ Although the FAR establishes a preference for multiple-award BPAs to encourage and facilitate competition when placing orders under BPAs, single-award BPAs are allowable with a justification.

¹² The IRB reviews all investments with an estimated annual value of \$500,000 or more or with a life cycle cost of \$2.5 million or more over 5 years.

Contract Financing

Although the Bureau paid for certain other direct costs and labor after the goods or services were received, as is traditional in federal contracting, the Bureau provided contract financing to GMMB for paid media purchases, which is allowable under the FAR. In these instances, GMMB prepared media plans based on estimated costs and the Bureau provided advance funds to GMMB upon approval of each media plan. GMMB was then expected to negotiate on the Bureau's behalf with the media publishers and execute the media plan. The prepaid amounts were liquidated as GMMB made media purchases throughout each task order.

Contract Termination

In March 2018, after spending about \$38.6 million, the Bureau notified GMMB that it was terminating the BPA and all open task orders for the convenience of the government. Bureau officials indicated that they would seek a refund from the contractor for any unspent funds for media placement.



Finding 1: The Procurement Office Can Improve Controls for Contract Financing and Annual BPA Reviews

The Bureau conducted market research, sought competition, performed technical and price reasonableness evaluations, and justified the GMMB BPA award in compliance with the FAR. However, the Procurement Office did not comply with FAR requirements concerning contract financing and conducting and documenting annual reviews during its administration of the BPA. The Procurement Office did not comply with these requirements because the office's policy does not address them and the CO was not aware of the specific FAR requirements. Complying with contract financing requirements and fully conducting and documenting annual BPA reviews could help ensure and provide evidence that contracts awarded are in the best interest of the government and that the Bureau is in compliance with the FAR.

The Procurement Office Did Not Comply With Contract Financing Requirements

The FAR states that the CO may include appropriate financing terms in contracts for commercial purchases when doing so will be in the best interest of the government. Specifically, contract financing may be used when certain circumstances exist. In such cases, the CO shall construct a solicitation provision and contract clause.¹³

The Procurement Office did not comply with the contract financing requirements in the FAR. Specifically, the CO did not consider whether the circumstances existed for using contract financing, did not include a contract financing provision in the BPA solicitation, and did not include a contract financing clause in four of the six task orders we reviewed. For the other two task orders, the CO included the contract financing clause but did not address whether the circumstances existed for using contract financing. The use of contract financing is not covered in Bureau procurement policy, and the CO stated that he was not aware of the FAR requirements.

Although the Procurement Office did not consider whether the appropriate circumstances existed to allow contract financing, we noted that some of the circumstances required for providing contract financing were met for the six task orders we reviewed. Specifically, the contract items are commercial supplies or services, the contract prices exceed the simplified acquisition threshold, and the contracts were awarded on the basis of competitive procedures. Program office officials also informed us that they provided contract financing to GMMB because it is customary in the commercial marketplace for these services. However, other circumstances were not met. The CO did not determine that the contract financing was in the best interest of the government, obtain adequate security, or obtain concurrence from the payment office regarding liquidation provisions (table 2).

¹³ FAR 32.202.

Table 2. The Procurement Office’s Compliance With Eight Circumstances for Providing Contract Financing

	Circumstance in which contract financing may be used	OIG determination of compliance
1	The contract item financed is a commercial supply or service.	Yes
2	The contract price exceeds the simplified acquisition threshold.	Yes
3	The contracting officer determines that it is appropriate or customary in the commercial marketplace to make financing payments for the item.	No ^a
4	Authorizing this form of contract financing is in the best interest of the government.	No
5	Adequate security is obtained.	No
6	Prior to any performance of work under the contract, the aggregate of commercial advance payments shall not exceed 15 percent of the contract price.	Not applicable ^b
7	The contract is awarded on the basis of competitive procedures or, if only one offer is solicited, adequate consideration is obtained (based on the time value of the additional financing to be provided) if the financing is expected to be substantially more advantageous to the offeror than the offeror’s normal method of customer financing.	Yes ^c
8	The contracting officer obtains concurrence from the payment office concerning liquidation provisions when required.	No

Source. OIG analysis of FAR 32.202-1(b) for the task orders in our sample.

^a Program office officials informed us that they provided contract financing to GMMB because it is customary in the commercial marketplace for these services.

^b This requirement applies to advance payments, which are given to the contractor when no work has been done. For the six task orders we reviewed, the CORs prepaid media purchases after some work had been done, so we characterize them as commercial interim payments. Therefore, this requirement is not applicable.

^c The BPA was awarded on the basis of competitive procedures but did not have the contract financing provision in the solicitation.

By not complying with FAR requirements for contract financing, the Bureau may increase the risk to the government and may not be able to ensure that the selected contract financing is in the best interest of the government. Fully considering and documenting financing provisions in Bureau contracts could help (1) provide evidence that the contract financing is in the best interest of the government; (2) obtain a lower price or better contract terms; and (3) strengthen controls to ensure return of government funds, if necessary.

The Procurement Office Did Not Fully Conduct and Document Required Annual Reviews of the BPA

The FAR requires that the CO review the BPA and determine in writing, at least once a year (for example, when determining whether to exercise an option), whether (1) the GSA schedule contract on which the BPA is established is still in effect, (2) the BPA still represents the best value, and (3) estimates have been exceeded and additional price reductions can be obtained.¹⁴

The Bureau did not fully conduct and document the required annual reviews. Specifically, when exercising each of the four option years, the CO conducted a best-value assessment and determined in writing that exercising the option was the best value to the Bureau. The CO determined that the contractor had been performing satisfactorily and an informal analysis of prices and examination of the market indicated that the option price was the most advantageous. The CO took into account the government's need for continuity of operations and potential costs of disrupting operations. However, the CO did not determine in writing whether the GSA schedule contract on which the BPA was established was still in effect, nor did the CO determine in writing whether cost estimates had been exceeded and additional price reductions could have been obtained.

The annual BPA review requirement is not addressed in the Bureau's procurement policy. In addition, the CO indicated that annual BPA reviews were not fully conducted and documented because the CO was not aware of this specific FAR requirement.¹⁵

According to the U.S. Government Accountability Office, by not conducting annual reviews, agencies may miss opportunities for savings by not requesting discounts when the estimates have been exceeded and may risk violating competition requirements if they place orders when the underlying GSA contract is no longer in effect. Because the underlying GMMB contract was still in effect, the Bureau did not violate competition requirements; however, the CO may have missed opportunities for cost savings, given that the invoiced total of \$38.6 million exceeded the original \$11.5 million estimate. Fully conducting and documenting an annual BPA review could help ensure and provide evidence that the Bureau complies with competition requirements and increase opportunities for cost savings.

Recommendation

We recommend that the Assistant Director for Procurement

1. Enhance existing policy and associated training to address contract financing and annual BPA review requirements.

¹⁴ FAR 8.405-3.

¹⁵ In a 2009 review of agencies' use of BPAs, the U.S. Government Accountability Office noted that agencies it reviewed generally did not comply with the annual BPA review requirements and that, in many cases, COs were also unfamiliar with the requirement. U.S. Government Accountability Office, *Contract Management: Agencies Are Not Maximizing Opportunities for Competition or Savings under Blanket Purchase Agreements despite Significant Increase in Usage*, GAO-09-792, September 9, 2009.

Management's Response

The Bureau concurs with this recommendation. The Bureau states that the existing applicable policies will be amended and that training will be developed to address contract financing and annual BPA review requirements.

OIG Comment

We believe that the actions described by the Bureau are responsive to our recommendation. We will follow up on the Bureau's actions to ensure that the recommendation is fully addressed.



Finding 2: The Program Office Can Improve Contract Management

For the six task orders we reviewed, the Bureau conducted technical and price reasonableness evaluations in compliance with the FAR, and task orders received IRB approval where appropriate. However, the program office did not properly manage the task orders in accordance with the FAR and internal guidance. Specifically, the CORs did not timely communicate with the Procurement Office about the use of contract financing, did not properly monitor the liquidation of prepaid media purchases, and did not verify actual expenses using source documents. The CORs did not properly manage the task orders because they were not familiar with the applicable requirements and internal guidance. Contracts must be properly managed to ensure oversight of the financial and general performance of the contract and to help reduce both the likelihood of an improper payment and the Bureau's vulnerability to fraud, waste, and abuse.

The Program Office Did Not Timely Communicate With the Procurement Office About the Use of Contract Financing

The COR desk guide states that CORs are expected to communicate and coordinate with the Procurement Office to ensure that all changes to the contract are first implemented through a written contract modification. Although the BPA was issued in 2013, the CORs did not communicate to the Procurement Office about the use of contract financing until February 2016. Multiple CORs assigned to the contract had worked in the private sector and indicated that providing contract financing is customary in the commercial marketplace for these services.

When CORs do not communicate and coordinate with the Procurement Office, the Procurement Office cannot ensure that appropriate contract changes are first implemented through a written contract modification. In addition, the Procurement Office cannot ensure proper coordination with the Bureau's Office of the Chief Financial Officer regarding liquidation provisions as required by the FAR, so the Office of the Chief Financial Officer in turn cannot ensure that prepaid goods or services are properly accounted for in the financial statements.¹⁶

The Program Office Did Not Properly Monitor the Liquidation of Prepaid Media Purchases

The FAR notes that contracts are executed when task orders are awarded against the BPA and funds are obligated to those task orders. The FAR requires that when closing out contract files, the program office or the COR must review the contract funds status and notify the CO of any excess funds the program office might deobligate. In addition, the COR desk guide states that monitoring costs is essential for

¹⁶ FAR 32.202-1(b)(8).

overseeing the financial and general performance of the contract and that expenses must be properly accounted for to maintain a healthy financial position.

The CORs did not properly monitor the contract funds status to accurately inform the CO of excess funds, from the prepaid media purchases, that the program office might deobligate. The CORs monitored total liquidated prepayments by marketing campaign and for all campaigns under the BPA but did not summarize them by task order. Although the CORs were monitoring the liquidation of prepaid media purchases for the BPA, the monitoring spreadsheet does not appear to be accurate or complete. We noted discrepancies between the GMMB-produced reports of liquidated amounts and the CORs' monitoring spreadsheet. In addition, the CORs were not monitoring the payment of industrial funding fees or ad serving fees, both of which are charges that depend on the liquidated value of the prepaid media purchases.¹⁷

Because CORs did not properly monitor the contract funds status, CORs cannot readily determine the total amount of prepaid media purchases liquidated for each task order, the unliquidated prepayments that should be deobligated for those task orders, and the total amount of funds to be returned to the Bureau. It appears that the Bureau is due a refund of prepaid funds that have been accumulating at GMMB. Further, because CORs did not notify the CO of excess funds from the prepaid media purchases, the CO did not deobligate the excess funds from some of the prepaid media purchases, and the contract close-out modifications do not accurately reflect the actual spending on the task orders. In addition, the Bureau cannot ensure prepaid funds are accurately presented in the financial statements.

The Program Office Did Not Verify Actual Labor-Hour Costs or Liquidated Media Purchases Using Source Documents

The FAR states that contractors shall substantiate labor-hour charges by evidence of individual daily job timekeeping records.¹⁸ Although the FAR does not specify requirements for liquidating prepayments, the checklist in the COR desk guide includes a step for the COR to determine whether all other direct costs are properly substantiated with receipts, invoices, and necessary approvals and whether costs are consistent with requirements in the contract. In addition, the COR desk guide notes that approving payments without supporting documentation increases the risk of fraud, waste, and abuse involving federal funds.

The CORs paid labor-hour charges on 67 of the 86 invoices we reviewed, all of which were missing support for labor-hour charges. Specifically, these invoices did not have any details or support to show actual labor hours and rates. The CORs prepaid media placement charges on 17 of the 86 invoices. The CORs approved the prepaid amounts based on estimates in approved media plans but did not confirm the actual amount liquidated using source documents. The CORs indicated that they used GMMB-produced reports that listed the relevant performance metrics and total investments for media purchases to

¹⁷ The *industrial funding fee* is a fee paid by customers to cover GSA's cost of operating the Federal Supply Schedules program. The fee is a percentage of reported sales under Schedules contracts. *Ad serving fees* are charges for the placement of online media.

¹⁸ FAR 52.232-7(a).

support the prepaid media costs. GMMB did not submit support for these labor charges and source documents for the liquidation of prepaid media, and the CORs did not request this information.

Without reviewing source documents for the liquidation of media placement or invoiced labor-hour charges, the COR could not ensure that the Bureau was accurately charged or paid the correct amount for the goods and services received. Although we were able to verify approximately \$1.3 million in charges, we were unable to verify \$2.5 million in labor-hour charges. In addition, we could not verify any of the \$27.1 million prepaid media purchases without source documents. Ensuring that CORs review source documents for contractor payments should reduce the likelihood of improper payments and reduce the Bureau's vulnerability to fraud, waste, and abuse.

Contract Management Challenges Resulted From a Lack of Awareness of Task Order Management Practices

The CORs explained that they did not manage their task orders properly because they were unaware of applicable guidance and requirements. The COR who was assigned to many of the labor-hour task orders was certified as a Level I COR, which is appropriate for firm-fixed-price contracts with basic provisions. Labor-hour task orders are better suited for someone who is at least a Level II COR. Procurement Office officials noted that, recognizing the need for additional oversight, they took steps to assign Level II CORs to task orders by ensuring that one of the current CORs received the Level II COR certification and by assigning additional Level II CORs later in the BPA. However, even with these steps taken by the Procurement Office, the task orders were not properly managed. A COR indicated that additional support for managing contracts would have been beneficial to help better manage the task orders.

In addition, the CORs did not obtain source documents for labor-hour charges or the liquidation of financing payments because

- The contract clauses in the Bureau's task orders did not specify contract financing requirements, including liquidation of financing payments, or expectations for invoice support (for example, labor hours and rates).
- The COR invoice refresher training documents indicate but do not emphasize the importance of thoroughly reviewing source documents for payments.
- The COR desk guide and its invoice review checklist are guidance, not policy. Therefore, although these documents provide information to CORs, CORs are not required to use them.

Further, we noted that the Procurement Office conducts semiannual reviews of COR files. A Procurement Office official stated that these semiannual reviews of COR files do not focus on the COR's review of payment support.

Agency Action

In April 2018, after we brought this matter to their attention, the Bureau requested source documents for the prepaid media purchases to determine the unliquidated prepayment amounts by task order so unspent funds can be properly refunded and deobligated.

Recommendations

We recommend that the Associate Director of Consumer Education and Engagement

2. Request and review all source documents for media purchases and labor-hour charges to verify the accuracy of the liquidation of contract financing and labor-hour invoices prior to closing out the GMMB BPA.

We recommend that the Assistant Director for Procurement

3. Enhance existing policy to provide additional support for CORs managing complex contracts.
4. Update invoice clauses and contract financing clauses in future contracts to explicitly state the requirements for payment support.
5. Enhance COR training by emphasizing the importance of reviewing source documents to support payments.
6. Develop and implement procedures for requiring CORs to use an invoice review checklist.
7. Expand the semiannual review of COR files to review support for approved payments.

Management's Response

The Bureau concurs with these recommendations. Specifically, the Bureau states that it has already taken steps to request all source documents for media purchases and labor-hour charges from GMMB. In addition, the Procurement Office will revise applicable policies and guides to include contract-specific training and develop a process for providing contract-specific training to CORs on complex contracts; update its agency-specific invoice clause to include invoice supporting documentation requirements; provide COR-specific training on the process for reviewing invoices; and assess the applicability of the invoice checklist in the COR desk guide and, if needed, provide training to CORs. Lastly, the Procurement Office and the Office of the Chief Financial Officer will collaborate to develop a process to review support of approved payments.

OIG Comment

We believe that the actions described by the Bureau are responsive to our recommendations. We will follow up on the Bureau's actions to ensure that the recommendations are fully addressed.



Appendix A: Scope and Methodology

Our objective was to assess the Bureau's compliance with applicable laws, regulations, and internal policies and procedures related to the award and management of the GMMB contract. To assess the contract award activities for the BPA, we reviewed documentation related to the justification and purpose of the award, the acquisition planning process, the technical and price evaluation processes, the tier review process, and the price reasonableness determination. For the management of the BPA, we reviewed documentation related to the exercise of BPA options as well as the annual BPA review. To assess the contract award activities for the selected task orders, we reviewed documentation related to the justification and purpose of the award, the technical and price evaluation processes, the tier review process, and the IRB approval process. For the management of these task orders, we reviewed documentation related to the modifications, deliverables, performance evaluations, invoices, and liquidation of contract financing payments.

We reviewed applicable laws, regulations, and internal policies and procedures, including

- sections of the FAR applicable to GSA schedule BPAs and task orders, as well as sections of the FAR applicable to contract financing for commercial items
- *Policy for Acquisition Planning*
- *Procurement Review Threshold Policy*
- *Investment Review Board Charter*
- COR desk guide
- *Office of Procurement Certification Handbook*
- COR Invoice Refresher Training

In addition, we reviewed relevant reports from the U.S. Government Accountability Office. We also reviewed our own reports on the Bureau's contracting, solicitation, and selection processes and contract management. Finally, we interviewed relevant Bureau employees, including the Chief Financial Officer, the Senior Procurement Officer, the Deputy Assistant Director for Procurement, COs, CORs, and the technical evaluation panel chair.

Our scope for this audit included the GMMB BPA and a nonstatistical, risk-based sample of 6 of the 22 task orders, which totaled \$36 million in obligations. This sample consisted of 1 task order that was a mix of firm-fixed price and other direct cost and 5 task orders that were a mix of labor hours and other direct cost. These 6 task orders were billed through 86 invoices, all of which were included in our scope.

We conducted our fieldwork from January 2018 to April 2018. We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B: Management's Response

1700 G Street NW,
Washington, DC 20552



June 7, 2018

Ms. Melissa Heist
Associate Inspector General for Audits and Evaluations
Board of Governors of the Federal Reserve System &
The Bureau of Consumer Financial Protection
20th and C Streets, NW
Washington, DC 20551

RE: The Selection and Management of the Bureau's GMMB Contract

Dear Ms. Heist,

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG) draft report titled "*The Bureau Could Have Better Managed Its GMMB Contract and Should Strengthen Controls for Contract Financing and Contract Management.*" We have reviewed the report and appreciate the recommendations provided on enhanced contract management controls.

Your report indicates that you found that the Bureau conducted appropriate steps in compliance with the Federal Acquisition Regulation (FAR) on selecting and reviewing contractors in a competitive award to GMMB. It also highlights a number of ways that we could have managed this contract, and future contracts of similar type, more effectively.

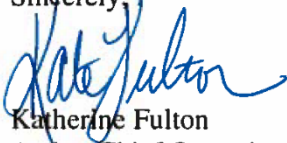
We take seriously the findings and recommendations and will strengthen controls as recommended. As you note in the report, we have already taken some steps to implement your recommendations.

We appreciate the OIG's recommendations and input on how to enhance Bureau processes to execute and manage contract actions in support of the Bureau's mission. We value your judgement and the professionalism consistently

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demonstrated by all OIG personnel throughout this review. We have provided comments for each recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Katherine Fulton".

Katherine Fulton
Acting Chief Operating Officer
Bureau of Consumer Financial Protection

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**RESPONSE TO RECOMMENDATIONS PRESENTED IN THE OIG REPORT:
“THE BUREAU COULD HAVE BETTER MANAGED ITS GMMB CONTRACT AND
SHOULD STRENGTHEN CONTROLS FOR CONTRACT FINANCING AND CONTRACT
MANAGEMENT”**

Recommendation 1: Enhance existing policy and associated training to address contract financing and annual BPA review requirements.

Management Response 1: The Bureau concurs with this recommendation. Our existing applicable policies will be amended and training will be developed to address contract financing (Federal Acquisition Regulation (FAR) Part 32) and annual BPA review requirements (FAR 8.405-3(e)).

Recommendation 2: Request and review all source documents for media purchases and labor-hour charges to verify the accuracy of the liquidation of contract financing and labor-hour invoices prior to closing out the GMMB BPA.

Management Response 2: The Bureau concurs with this recommendation. The Bureau plans to fully implement the recommendation to request and review additional supporting documentation from GMMB. The Bureau has already taken steps to request this additional information from GMMB.

Recommendation 3: Enhance existing policy to provide additional support for CORs managing complex contracts.

Management Response 3: The Bureau concurs with this recommendation. The Office of Procurement will revise the applicable policies and guides to include contract-specific training and further define complex contracts. In addition, the Office of Procurement will develop a process for providing contract-specific training to CORs when designated on complex contracts.

Recommendation 4: Update invoice clauses and contract financing clauses in future contracts to explicitly state the requirements for payment support.

Management Response 4: The Bureau concurs with this recommendation. As a best practice, the Office of Procurement will update its agency specific invoice

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clause to include invoice supporting documentation requirements and will review the updated clause at a COR training session.

Recommendation 5: Enhance COR training by emphasizing the importance of reviewing source documents to support payments.

Management Response 5: The Bureau concurs with this recommendation. The Office of Procurement will provide COR specific training on the process for reviewing invoices, including the importance of ensuring proper supporting documentation exists prior to approving an invoice.

Recommendation 6: Require CORs to use the invoice review checklist in the COR desk guide.

Management Response 6: The Bureau concurs with this recommendation. With the upcoming invoice clause revision, additional internal assessments and audits, the Office of Procurement will assess the applicability of the invoice checklist in the Desk Guide for CORs and if needed, provide training to CORs.

Recommendation 7: Expand semiannual review of COR files to review support for approved payments.

Management Response 7: The Bureau concurs with the recommendation to review support for approved payments. The Office of Procurement and OCFO will collaborate to develop a process to review support of approved payments. The Office of Procurement will provide COR specific training on the process for reviewing and approving invoices.

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Abbreviations

BPA	blanket purchase agreement
Bureau	Bureau of Consumer Financial Protection
CO	contracting officer
COR	contracting officer's representative
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
FAR	<i>Federal Acquisition Regulation</i>
GSA	U.S. General Services Administration
IRB	Investment Review Board
Procurement Office	Office of the Chief Procurement Officer

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