



*Controls Over the Contracting Officer's
Technical Representatives Workforce Were
Ineffective, Resulting in Significant Risks to
the Government*

September 30, 2009

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 30, 2009

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT
DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT

Michael R. Phillips

FROM: Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Controls Over the Contracting Officer’s Technical
Representatives Workforce Were Ineffective, Resulting in Significant
Risks to the Government (Audit # 200810031)

This report presents the results of our review of the controls over the Contracting Officer’s Technical Representatives (COTR) workforce. The overall objective of this review was to determine whether the Internal Revenue Service (IRS) COTRs are properly managed and functioning in a manner, as directed by the responsible Contracting Officers (CO) and applicable guidance, which will ensure that goods/services are received in accordance with the terms of the contracts and within the cost and/or schedule requirements. This review was part of the Treasury Inspector General for Tax Administration’s Fiscal Year 2008 Annual Audit Plan risk-based coverage under the major management challenge of Erroneous and Improper Payments and our Cross-Cutting Acquisition Audit Strategy to provide comprehensive oversight of IRS acquisition activities.

Impact on the Taxpayer

The COTR workforce is a key internal control to ensure that the contractor is meeting the Government’s interest in terms of providing deliverables that are of high quality, complete, timely, and cost effective. However, the IRS’ contract administration was ineffective. As a result, the IRS cannot ensure that payments were made only to contractors who performed in accordance with contract terms and conditions and that taxpayer dollars are not being misspent.



Controls Over the Contracting Officer's Technical Representatives Workforce Were Ineffective, Resulting in Significant Risks to the Government

Synopsis

IRS management needs to take steps to strengthen their strategic management of the COTR workforce. COTRs are not properly managed and functioning in a manner, as directed by the responsible COs and applicable guidance, to ensure that goods/services are received in accordance with the terms of the contracts and within the cost and/or schedule requirements. As a result, we believe that IRS contract administration was ineffective to ensure that the Federal Government was receiving the appropriate goods and services.

We determined that the majority of the formally delegated¹ COTRs were not performing the day-to-day contract oversight or the actual physical receipt and acceptance of contract deliverables for the procurements to which they were assigned. Instead, these COTRs limited their involvement to administrative functions (i.e., documenting receipt of goods and services in the Web Request Tracking System²) and relied on program office employees that were usually collocated with the contractors' employees to determine whether the goods or services provided by the contractor were acceptable. However, these program office employees were never formally delegated COTR authority³ by the responsible CO and had not received training in Federal contracting to perform their contract administration role. When unauthorized personnel inspect deliverables, make recommendations regarding contract payments, or instruct the vendor to perform work outside the scope of the contract, there is a risk that unauthorized commitments can occur or work may not be completed in accordance with contractual requirements.

Our review determined that 31 COTRs, who were responsible for the oversight of 54 contract actions that totaled approximately \$45.1 million, were not performing all of their COTR oversight duties. Only 6 (19 percent) of the 31 formally delegated COTRs actually physically received and accepted deliverables on 11 of the 54 contract actions we reviewed. The remaining 81 percent of the COTRs relied upon 36 IRS program office employees to perform these tasks for the other 43 contract actions. However, 30 (83 percent) of the 36 program office employees were not authorized to perform their COTR duties.⁴ In addition, the program office employees had not received any required COTR training. Yet, they were routinely making decisions on whether deliverables met the technical requirements of the Federal Government and making recommendations on payments for goods and services.

In addition, IRS managers responsible for supervising COTRs are not periodically monitoring and/or reviewing the COTR contract files for accuracy and completeness. The Federal Acquisition Regulation⁵ requires agencies to ensure that contract files are current, complete, and

¹ For explanation of term, see Page 4 of the report, footnote 9.

² For explanation of term, see Page 4 of the report, footnote 12.

³ For explanation of term, see Page 4 of the report, footnote 13.

⁴ For explanation of term, see Page 6 of the report, footnote 16.

⁵ 48 C.F.R. ch. 1 (2009).



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accurate. We identified 40 contract actions having a combined total value of \$31.8 million for labor hour expenses. These 40 contracts were assigned to 26 (84 percent) of the 31 sampled COTRs. Our review of these contract files showed that 85 percent (22 of 26) of these COTRs did not have sufficient documentation to support their approval of the contractor's billed labor charge. Even when these COTRs retained copies of the contractor's invoice and corresponding monthly summary of the contract employees' hours, these charges could not be validated.

The IRS needs to improve the performance assessment process for the COTRs and ensure that they are held accountable for their contract management duties. Our discussions with the supervisors of formally delegated COTRs indicated that all 31 supervisors considered various contract management responsibilities when evaluating whether their employees effectively performed their COTR duties. However, our review of the annual evaluations showed only 10 COTRs (32 percent) had their COTR duties acknowledged; the remaining 21 (68 percent) employees had no mention of these duties in their annual performance evaluations.

Conversely, we found that the program office supervisors, who had employees unofficially performing COTR responsibilities, have not had any formal COTR or contract management training to fully understand the scope of the COTRs responsibilities. In our review of the annual performance evaluations, only 1 of the 36 employees had a specific narrative documenting their contract management activities regarding the performance of receipt and acceptance of contract deliverables.

The IRS has taken positive steps to improve its COTR personnel by initiating mandatory training for all employees, who were formally delegated as COTRs, to complete the required professional certification and set standard time periods for this training. However, the IRS needs to develop an on-the-job process for supporting newly selected and less experienced COTRs that have minimal contract administration experience. We found that some supervisors informally provided on-the-job support for newly selected or less experienced COTRs, but this practice needs to be consistently applied across the IRS program offices with a more formal structure.

Recommendations

The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should: 1) establish and implement cross-cutting guidance that effectively ensures that the IRS provides appropriate contract monitoring to reduce acquisition risks; 2) identify all IRS employees agency wide performing COTR-related duties and ensure that they are formally delegated authority by the responsible CO, appropriately trained, and certified in accordance with Federal acquisition requirements; 3) ensure their supervisors are knowledgeable of the oversight requirements for the contracts their employees are assigned to monitor and evaluate all aspects of their employees' contract management performance; and 4) ensure that consistent ongoing on-the-job support is provided for newly selected or less experienced COTRs. Finally, the Director, Office of Procurement, should reevaluate the current approach and expand



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the reviews of COTR contract files to ensure reviews are routinely performed to substantiate that relevant, accurate, and complete documentation is being received, verified, and retained to support the contractors' billed expenses.

Response

The IRS agreed with four of the five recommendations and agreed in part with one recommendation. Specifically, the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement will communicate the importance of the COTR role in a Service-wide memorandum emphasizing the importance of proper contract administration and contract monitoring. The Office of Procurement will also update its internal guidance to include a requirement for COTR communication documentation, a standard COTR contract administration file checklist, a requirement for all COs to meet with COTRs upon appointment and on a periodic basis following appointment, and to review COTR contract administration files annually.

The IRS also plans to provide receiving officials and COTRs with computer-based training on their receipt and acceptance duties, as well as on COTR roles and responsibilities. Training modules will be developed for COs on how to review COTR contract files and for managers of COTRs and receiving officials on the manager's oversight requirements and responsibilities when their employees are assigned to monitor contracts.

The IRS further plans to modify the COTR's letter of appointment to include new requirements regarding maintaining COTR files and responsibilities of supervisors, including a signature line for supervisors to acknowledge their understanding of these responsibilities and oversight requirements.

Prior to our review, the IRS launched an online IRS Procurement 101 Reference Guide to provide COTRs with a resource to learn basic procurement information. The Office of Procurement will continue to provide COTR training and continuous learning opportunities in accordance with the Government-wide Federal Acquisition Certification for COTRs policy. The IRS has also implemented procedures that require COs to appoint qualified COTRs for all contract actions exceeding the simplified acquisition threshold of \$100,000 and that COs ensure COTRs meet their Federal Acquisition Certification and Web Request Tracking System requirements.

The IRS respectfully disagreed with the recommendation to amend annual employee evaluation documents to include employee contract management responsibilities in the critical job elements and position description standards for all employees performing COTR responsibilities. Because the COTR is not a job title or a job series, and COTRs hold many different positions throughout the Service, IRS management cannot amend COTR annual employee evaluation documents for all employees performing COTR duties. COTR duties are considered "other duties as assigned"



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in the various position descriptions. IRS Procurement subsequently clarified one part of their disagreement and agreed that the COTR's supervisor should discuss performance of contract management duties in the COTR's performance appraisal narrative.

Lastly, the IRS respectfully disagreed with the recommendation for COs to provide input to the performance evaluations of IRS staff performing contract management duties on IRS contracts. The IRS' National Agreement states, "The Employer has determined that bargaining unit employees (e.g., Leads) may report to a supervisor what they have observed involving the performance of workload assigned to the employees of their work group." Most COs are bargaining unit employees but are usually not members of the same work group as the COTR. Nor are they often the lead of a work group which includes the COTR. Therefore, to be in compliance with the National Agreement, COs cannot provide input to the performance evaluations of IRS staff performing contract management duties. Management's complete response to the draft report is included as Appendix V.

Office of Audit Comment

We agree with the IRS' corrective action to provide specific training to ensure that supervisors are knowledgeable of their oversight responsibilities for the contracts their employees are assigned to monitor. However, the IRS response does not indicate whether this training will be required training for all supervisors of COTRs and receiving officials. We believe it should be. We also agree with the corrective action of modifying the COTR letter of appointment to include the supervisor's responsibilities as well as their signature acknowledging their understanding of these responsibilities and the oversight requirements for the contracts their employees are assigned to monitor. Regarding the issue of allowing COs to provide input to the appraisals of COTRs or receiving officials, we are concerned that the IRS' actions of training supervisors on how to evaluate their employee's performance of COTR or receiving official duties will not be sufficient to provide appropriate performance feedback and accountability. We recognize the terms of the collective bargaining agreement are controlling and that the IRS is contractually obligated to adhere to its terms. We would note, however, that the IRS could attempt to negotiate different terms to the collective bargaining agreement at the next available opportunity. The quality and effectiveness of the Federal Government acquisition process depends on an accountable acquisition workforce. We believe the COTRs' receipt of performance feedback from the responsible CO is critical to that outcome.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Assistant Inspector General for Audit (Management Services and Exempt Organizations), at (202) 622-8500.



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Abbreviations

CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
FAR	Federal Acquisition Regulation
IRS	Internal Revenue Service
P&P	Policy and Procedures



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Background

The Internal Revenue Service (IRS) Office of Procurement provides acquisition management for IRS operations. During Fiscal Year 2008, the Office of Procurement's acquisition funding of \$1.8 billion accounted for 16 percent of the IRS' total budget of \$11 billion. As of February 28, 2008, the Office of Procurement managed approximately 709 contracts of varying types with a total contract value over the life of the contracts of approximately \$34 billion.

The "acquisition team" consists of all participants in the acquisition process including program managers, Contracting Officers (CO), and Contracting Officer's Technical Representatives (COTR). IRS program managers are responsible for providing justification and certifying that there is a legitimate Federal Government need for the goods or services to be covered by the contract, as well as sufficient funding to pay for the goods or services.

Procurement professionals, primarily COs, serve as the legal agents of the Federal Government responsible for the integrity of the contracting process. The Federal Acquisition Regulation (FAR)¹ states that the CO is responsible for safeguarding the Federal Government's interests, ensuring performance of all necessary actions for effective contracting, and ensuring contractors are complying with contract terms. He or she usually works in the procurement office rather than the program office and provides the expertise on the transactional aspects of the contracting process, such as entering into, administering, or terminating contracts and making related determinations and findings.²

The FAR stipulates that only a CO has the authority to enter into, change, or terminate a contract, order, agreement, lease, or other transaction on behalf of the Federal Government. The CO signs and has legal responsibility for obligating³ documents. A CO's authority, and any limits to that authority, is stated in a Certificate of Appointment commonly referred to as a "warrant."⁴

Although the CO must retain certain contracting responsibilities, he or she may delegate some responsibilities. For example, a CO without expertise to oversee the technical aspects of contractor performance may delegate this duty. Therefore, it is common for the CO to formally delegate the technical oversight and/or administrative management aspects of the contracting process to a COTR.

¹ 48 C.F.R. ch. 1 (2009).

² FAR Subpart 1.602-1.

³ An obligation is a definite commitment by the Federal Government to spend appropriated funds. A binding contract is an obligation.

⁴ Under FAR provisions, COs must be appointed in writing on a Certificate of Appointment (Standard Form 1402). This Certificate of Appointment is commonly referred to as a "warrant." Selection, appointment, and termination of CO appointments are accomplished in accordance with the procedures in FAR Subpart 1.603.



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The COTRs perform critical duties to protect the public's interest in ensuring that contract deliverables meet the needs of the Federal Government. Within the Federal Government, the COTRs usually work in a program office, the functional organization that needs a good or service provided by the contract. The COTRs provide the technical and program expertise necessary to develop and manage the contract and are usually selected by or with the advice of the program office. In addition, the COTRs have authority to work on contracts only when they have been formally delegated such authority by the CO and may not delegate their authority to others.

On November 26, 2007, the Office of Federal Procurement Policy issued the Federal Acquisition Certification requirement for COTRs and established a structured training program that standardized competencies and training across civilian agencies.⁵ The Department of the Treasury COTR Acquisition Regulation requires that each Bureau's procurement office establish policy and procedures for COTR selection, training, and certification. All individuals who are acting as COTRs on IRS contracts must meet training and certification requirements. All COTRs appointed to a contract after November 26, 2007, must be certified no later than 6 months from the date of their appointment and must maintain their skills through continuous learning. They are required to attend a minimum of 40 hours of training every 2 years. Of these 40 hours, 22 must cover essential COTR competencies.

Department of the Treasury Acquisition Regulations also require COs to formally delegate authority to a COTR⁶ for all contractual actions exceeding the simplified acquisition threshold⁷ of \$100,000. This step ensures that COTRs are fully informed of what they must do and also what they cannot do on a particular contract. It also protects the Federal Government from the harmful effects of COTRs acting beyond the scope of their authority or acting without authority, which could lead to unauthorized commitments and work that is not being completed in full compliance with contractual requirements.

⁵ The Clinger-Cohen Act of 1996 (Federal Acquisition Reform Act of 1996) (Information Technology Management Reform Act of 1996) Pub. L. No. 104-106, 110 Stat. 642 (codified in scattered sections of 5 U.S.C., 5 U.S.C. app., 10 U.S.C., 15 U.S.C., 16 U.S.C., 18 U.S.C., 22 U.S.C., 28 U.S.C., 29 U.S.C., 31 U.S.C., 38 U.S.C., 40 U.S.C., 41 U.S.C., 42 U.S.C., 44 U.S.C., 49 U.S.C., 50 U.S.C.). Office of Federal Procurement Policy, Policy Letter 05-01 implements the Services Acquisition Reform Act (SARA) of 2003 (41 U.S.C. 428a) by designating COTRs as members of the acquisition workforce and by encouraging agencies to require that COTRs achieve 40 continuous learning points every 2 years after certification. The Office of Federal Procurement Policy in the Office of Management and Budget plays a central role in shaping the policies and practices federal agencies use to acquire the goods and services they need to carry out their responsibilities. The SARA established a Services Acquisition Advisory Panel to make recommendations for improving acquisition practices. In January 2007, the panel proposed 89 recommendations to improve federal acquisition practices.

⁶ IRS Memorandum 1.6(C), Appointment of COTRs and Alternate COTRs, dated January 1, 2008.

⁷ Purchases of supplies or services less than \$100,000, using simplified procedures described in FAR Part 13. Simplified acquisitions include purchase card buys, purchase orders, electronic purchasing, task and delivery orders against established contracts, imprest fund buys, and blanket purchase agreements.



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When unauthorized personnel perform the inspection of deliverables and make recommendations regarding contract payments without the benefit of formal procurement training to match their technical expertise, there is a risk that work may not be completed in full compliance with contractual requirements. For example, if an IRS employee without contracting authority enters into a contractual agreement with a vendor on behalf of the IRS or instructs the vendor to perform work outside the scope of the contract, an unauthorized commitment has occurred. Examples of unauthorized commitments include when employees accept or order goods prior to processing a requisition or obtaining necessary authorizations, approve work beyond the scope or dollar value of an existing contract, or authorize a contractor to perform work after the expiration date of the contract.

When work is performed as a result of an unauthorized commitment, the vendor cannot be paid for the work until a legitimate contract is established through “ratification.” In a contract ratification action, the ratifying official reviews the facts pertaining to the unauthorized commitment and determines whether to make the action whole and legally binding after the fact. While we did not specifically look at unauthorized commitments or ratifications as part of this review, we view it as a potential risk if IRS COTRs are performing contract management without the required authority or training.

In February 2009, the American Recovery and Reinvestment Act of 2009⁸ was signed into law with sections addressing contracts and contract management. In addition, the Office of Management and Budget issued two sets of implementing guidance for the American Recovery and Reinvestment Act of 2009 to Federal agencies on February 18, 2009, and April 3, 2009, which also address the need for sufficient qualified acquisition personnel to perform contract administration to mitigate the Government’s risk.

This review was performed at the Office of Procurement in Oxon Hill, Maryland, and various other program offices in Washington, D.C.; Chicago, Illinois; New Carrollton, Maryland; Detroit, Michigan; Austin, Texas; Dallas, Texas; and Kearneysville, West Virginia, and within the National Headquarters of the IRS Large and Mid-Size Business, Small Business/Self-Employed, and Wage and Investment Divisions, during the period March 2008 through March 2009. 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. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁸ Pub. L. No. 111-5, 123 Stat. 115.



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Results of Review

IRS management needs to take steps to strengthen their strategic management of the COTR workforce. COTRs are not properly managed and functioning in a manner, as directed by the responsible Contracting Officers (CO) and applicable guidance, to ensure that goods/services are received in accordance with the terms of the contracts and within the cost and/or schedule requirements. As a result, we believe that IRS contract administration was ineffective to ensure that the Federal Government was receiving the appropriate goods and services.

We determined that the majority of the formally delegated⁹ COTRs were not performing the day-to-day contract oversight or the actual physical receipt and acceptance¹⁰ of contract deliverables for the procurements to which they were assigned. Instead, these COTRs limited their involvement to administrative functions (i.e., documenting receipt¹¹ of goods and services in Web Request Tracking System¹²) and relied on program office employees that were usually collocated with the contractors' employees to determine whether the supply or service provided by the contractor was acceptable. However, these program office employees were never formally delegated COTR authority¹³ by the responsible CO and had not received training in Federal contracting to perform their contract administration role. When unauthorized personnel inspect deliverables, make recommendations regarding contract payments, or instruct the vendor to perform work outside the scope of the contract, there is a risk that unauthorized commitments can occur or work may not be completed in accordance with contractual requirements.

⁹ At the time a COTR is to become responsible for a contract, task order, or delivery order, the CO must issue a written appointment letter of delegation informing the individual by name of his or her authority, including a delineation of applicable limitations and responsibilities.

¹⁰ Acceptance is the act of an authorized representative of the Government by which the Government assumes ownership of supplies or approves services rendered. By accepting the supplies or services, the COTR, Alternate COTR or Government Representative acknowledges that the supplies or services conform to contract requirements. Acceptance may be for partial or complete performance of the contact, task order, or delivery order (Policy and Procedures (P&P) No. 46.5).

¹¹ Receipt is defined as the documentation of acknowledgement that supplies were received or services were rendered. (P&P No 46.5).

¹² Web Request Tracking System is a new web-based version of the previous Request Tracking System. It provides a multitude of functions throughout the acquisition process to include: create, route, approve, and fund requests for goods and services.

¹³ Because the Government purchases supplies and services that often require technical expertise to determine the acceptability of the supply or service, the CO often appoints an individual who possesses this expertise to be the COTR (alternate COTR or Technical Point of Contact) in accordance with IRS P&P No 1.6. If the Acquisition Project Manager or Government Task Managers are performing the COTR role they must be formally delegated and receive the required COTR training and certification in compliance with Federal requirements.



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In addition, COTRs were not evaluated on their performance of contract administration duties. Without appropriate management of the COTR workforce and effective contract administration, the IRS is at risk that positive contract outcomes, in terms of quality, completeness, timeliness, and the appropriate cost of deliverables may not occur.

To ensure that the IRS effectively and reliably fulfills its critical contract monitoring responsibilities, it must make certain that:

- Employees are formally delegated authority and trained before performing COTR responsibilities.
- COTRs effectively review contractor billings for accuracy prior to recommending payment to the responsible CO, and request, validate, and maintain adequate supporting documentation for invoice/voucher¹⁴ verifications in contract files.
- COTRs are assessed on their contract administration duties as part of the performance evaluation process.
- Newly hired and less experienced COTRs have adequate ongoing on-the-job support.

Employees Are Not Always Formally Delegated and Trained Prior to Performing Contracting Officer's Technical Representative Duties

The CO is ultimately responsible for the adherence to and management of the terms of the contract. The Office of Procurement Policy requires COs to appoint a COTR (and if applicable an alternate COTR) on all awarded contracts exceeding the simplified acquisition threshold of \$100,000. The COTR becomes the “eyes and ears” of the CO by ensuring that technical requirements are being met and that the contractor is adhering to the terms of the contract. The formally delegated COTR (and/or an alternate COTR) must be technically experienced to ensure that the receipt and acceptability of the contract deliverables on behalf of the Federal Government are appropriate and meet the terms of the contract. The Services Acquisition Reform Act of 2003¹⁵ expanded the definition of acquisition to include functions performed by COTRs, such as managing and measuring contract performance and providing technical direction.

The IRS currently uses its formally delegated COTRs to perform administrative duties and often relies on untrained program office personnel to perform day-to-day onsite contract management. This practice is inappropriate because these program office individuals have not been formally delegated authority to perform contract management by a responsible CO and may not understand the duties and responsibilities that they are assuming in taking on this role. Yet, they were routinely making decisions on whether deliverables met the technical requirements of the

¹⁴ For purposes of this report, the words “vouchers” and “invoices” are used interchangeably.

¹⁵ P.L. 108-136.



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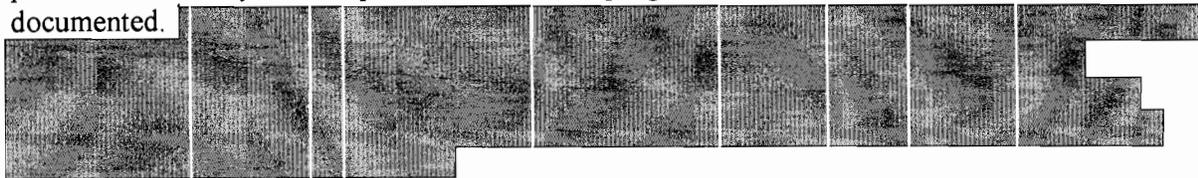
Federal Government and making recommendations on payments for goods and services. Formally appointing a COTR ensures that COTRs are fully informed of what they must do and what they cannot do on a particular contract. Formal appointment combined with appropriate training and certifications gives COTRs the tools they need to ensure that the receipt and acceptability of their contract deliverables on behalf of the Federal Government are appropriate, meet the terms of the contract, and do not result in improper payments.

Our review determined that 31 COTRs who were responsible for the oversight of 54 contract actions that totaled approximately \$45.1 million were not performing all of their COTR oversight duties. Only 6 (19 percent) of 31 formally delegated COTRs actually physically received and accepted deliverables on 11 of the 54 contract actions we reviewed. The remaining 81 percent of the COTRs relied upon 36 IRS program office employees to perform these tasks for the other 43 contract actions.

These 36 program office employees were located within the requesting office or were program office employees collocated with the contractor's employees. Only 6 (17 percent) of the 36 program office employees were formally delegated authority to perform contract management by a responsible CO. However, 30 (83 percent) of the 36 program office employees were not authorized to perform their COTR duties.¹⁶ In addition, the program office employees had not received any of the required COTR training and are not currently seeking the necessary certification to perform contract management duties.

Further, none of these 36 program office employees maintained accurate and complete contract files. Their files lacked sufficient documentation to support their decisions to accept the subject deliverables and make informed recommendations for invoice/voucher payment and the expenditure of Federal Government funds. For example, in many instances the contract file lacked any documentation showing the basis for the recommendation to make payment in full, make a partial payment, or deny payment. This occurred in part because the information was provided informally in a telephone call from the program office to the COTR and never formally documented.

3(d)



Program office supervisors were aware that their employees were advising the COTRs and the Office of Procurement on the receipt and acceptance of contract deliverables. In 32 instances, these managers stated that it was appropriate for their employees to make payment

¹⁶ While IRSAP 1001.670-2 Appointment states Contracting Officers shall consider alternatives to COTRs such as receiving officials or points of contact, depending on the type of contract or deliverables (for procurements with little complexity or post-award contract management requirements like receipt of office supplies), all contract actions in our audit sample had a formally delegated COTR associated with them due to their complexity and the experience and commitment of personnel needed to manage them effectively.



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recommendations to the Office of Procurement. They stated that their employees were technically qualified and familiar with the contract requirements for the deliverables. Although these employees may be technically qualified in their program office responsibilities, we believe their lack of knowledge of appropriate IRS procurement practices and procedures and FAR represents a significant risk to the proper administration of the subject contracts.

The quality and effectiveness of the Federal Government acquisition process depends on the development of a capable and competent workforce. If the IRS determines that program office personnel, Technical Points of Contact,¹⁷ Acquisition Project Managers, and Government Task Managers are the appropriate staff to physically receive and accept the contract deliverables and approve payments to the contractors, the COs should be formally delegating them this authority so they understand their duties and responsibilities and are given the appropriate training. Without appropriate management of the COTR workforce, the IRS is lacking a key internal control to ensure that the contractor is meeting the public's interest in terms of providing deliverables that are of high quality, complete, timely, and cost effective.

Recommendations

Recommendation 1: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should establish and implement cross-cutting guidance that effectively ensures that the IRS provides appropriate contract monitoring to reduce acquisition risks. The remaining recommendations (2 through 5) cover various aspects of this cross-cutting guidance and should be included in the final guidance as well.

Management's Response: The IRS agreed with the recommendation. The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement will communicate the importance of the COTR role in a Service-wide memorandum emphasizing the importance of proper contract administration and contract monitoring. The Office of Procurement will update internal guidance for Calendar Year 2010 to include a section for COTR communication documentation.

Recommendation 2: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should identify all IRS employees agency wide who are performing COTR-related duties and ensure that they are formally delegated authority by the responsible CO on their procurement duties, appropriately trained, and certified in accordance with Federal acquisition requirements.

Management's Response: The IRS agreed with the recommendation. The Office of Procurement's internal guidance requires that COs appoint a qualified COTR for all

¹⁷ Because the Government purchases supplies and services that often require technical expertise to determine the acceptability of the supply or service, the CO often appoints an individual who possesses this expertise to be the COTR (alternate COTR or Technical Point of Contact) in accordance with IRS P&P No 1.6.



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contractual actions exceeding the simplified acquisition threshold by issuing a signed letter of appointment tailored to meet the needs of each contractual action assigned. The guidance also requires that COs ensure COTRs meet the requirements of the Federal Acquisition Certification for COTRs; ensure that COTRs are registered Web Request Tracking System users and have self-certified as an eligible COTR in their user profile; and designate COTRs in the web Integrated Procurement System for all contractual actions exceeding the simplified acquisition threshold. Upgrades made to the Web Request Tracking System in Fiscal Year 2008 included a feature that provides the capability to generate a report identifying all COTRs formally delegated authority for contractual actions by the responsible CO.

To ensure receiving officials and COTRs are trained appropriately on the responsibilities for receipt and acceptance in the Web Request Tracking System and the differences between receipt and acceptance, the Office of Procurement will develop a computer-based training module for all Web Request Tracking System users performing receipt and acceptance.

***Contracting Officer's Technical Representatives Did Not Always
Review, Verify, and Maintain Appropriate Invoice/Voucher
Documentation Prior to Releasing Payment***

IRS managers responsible for supervising COTRs are not periodically monitoring and/or reviewing the COTR contract files for accuracy and completeness. The FAR requires agencies to ensure that contract files are current, complete, and accurate. Invoice/voucher processing¹⁸ is an important aspect of contract administration. The Federal Government expects the contractor to meet all contract requirements for quality, quantity, and timeliness. Therefore, it is incumbent upon program, procurement, and finance officials to clearly understand their roles and responsibilities related to reviewing and processing invoices/vouchers. An important aspect of invoice/voucher review, approval, and processing is good communication between the COTR, CO, and finance official to ensure that payment is made properly and timely.

We identified 40 contract actions having a combined total value of \$31.8 million for labor hour expenses. These 40 contracts were assigned to 26 of the 31 (84 percent) sampled COTRs. Our review of these contract files showed that 85 percent (22 of 26) of these COTRs did not have sufficient documentation to support their approval of the contractor's billed labor charge. Even when these COTRs had retained copies of the contractor's invoice and corresponding monthly summary of the contract employees' hours, these charges could not be validated. While time/billable hours invoices submitted for payment to the IRS did reflect the individual contract

¹⁸ The COTR's approval of an invoice/voucher implies that to the best of the COTR's knowledge, the nature, type, and quantity of effort or materials being expended are in general accordance with the progress of work under the contract.



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employees' names and provided a summary of the total hours worked, the COTRs did not receive, request, or retain any documentation to support that the labor category/rate was appropriate or that individual timesheets had been reviewed and approved by contractor management to support the billings. As a result, the IRS cannot ensure that payment was only made to contractors who performed in accordance with contract terms and conditions and that taxpayer' dollars are not being misspent.

The IRS has established procedures detailing how COTRs are to properly perform invoice/voucher verifications. A plan or process for quickly and efficiently meeting this obligation is essential. Establishing better controls to ensure compliance with the FAR policies and guidelines is recommended. In a prior report,¹⁹ we recommended that the IRS "should provide training on the Guidebook²⁰ and follow up to ensure that all COTRs receive and use the invoice/voucher verification guidance developed as part of the Guidebook." The IRS agreed with our recommendation and proposed that "a quality review process will be implemented to monitor compliance with the invoice/voucher verification guidance." The IRS quality review process is scheduled to be implemented in July 2009. As a result, we are making no further recommendations on the voucher/invoice verification process at this time.

Recommendation

Recommendation 3: The Director, Procurement, should reevaluate the IRS' current approach and expand the reviews of COTR contract files to ensure that reviews are routinely performed to substantiate that relevant, accurate, and complete documentation is being received, verified, and retained to support the contractor's billed expenses.

Management's Response: The IRS agreed with the recommendation. One of the primary duties listed in the letter of appointment requires COTRs to maintain an organized contract administration file. The Office of Procurement will develop a standard COTR contract administration file checklist and include the requirement in the letter of appointment that COTR files be maintained in accordance with the checklist.

The Office of Procurement's internal guidance will be updated to include a requirement for all COs to meet with COTRs upon appointment and on a periodic basis following appointment and to review COTR files annually to ensure that files are maintained in accordance with the checklist. In addition, the Office of Procurement will develop IRS-specific training for COTRs on roles and responsibilities, including how to maintain their contract administration files and IRS specific training on how to review COTR contract administration files.

¹⁹ *Procurement's Control Environment Was Ineffective and Did Not Prevent Overpayments to Contractors* (Reference Number 2008-10-092, dated March 28, 2008).

²⁰ The Guidebook is a web-based system that includes standardized processes, procedures, templates, and best practices used by COs, COTRs, and Procurement customers.



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Performance Evaluations for Employees Involved in Contract Management Did Not Address Contracting Officer's Technical Representative Responsibilities

The IRS needs to improve the performance assessment process for COTRs and ensure that they are held accountable for their contract management duties. During our review, we found that personnel guidelines used to evaluate employees' annual performance do not include procurement-related responsibilities for those employees performing the COTRs' role. In addition, the current annual evaluation form being used by IRS managers to evaluate formally delegated COTRs does not address specific COTR responsibilities. These personnel guidelines specify the critical job elements and job descriptions which serve as the IRS' official documents for evaluating personnel. As a result, if they do not include COTR responsibilities, the job elements and evaluations for employees will be incomplete and employees may not be properly evaluated on all their assigned duties and responsibilities.

The IRS Performance Management System provides a framework for supervisors and employees to improve communications, coordinate planning activities, link individual and organizational performance, and ensure fair and consistent treatment of taxpayers. Performance management is the systematic process by which the IRS involves its employees, as individuals and members of a group, in improving organizational effectiveness to accomplish the mission and goals of the agency.

A position description document is an official description of the major duties, responsibilities, qualification requirements, and supervisory relationships of a position. Managers and supervisors should clearly define what duties and responsibilities will be assigned to each position. They may also direct and assign specific tasks which are not reflected in the position description. However, should such tasks become major responsibilities, the position description must be modified to incorporate those tasks and have these properly classified.

Individuals formally delegated as COTRs are not being properly evaluated

Discussions with the supervisors of the 31 formally delegated COTRs included in our sample indicated that all of the supervisors considered various contract management responsibilities when evaluating whether the employee effectively performed their COTR duties. However, our review of the annual evaluations for them showed only 10 COTRs (32 percent) had their COTR duties acknowledged in their annual performance evaluation associated narrative. For the remaining 21 (68 percent) annual evaluations, the supervisors made no mention of these duties in their employees' annual performance evaluations.

In addition, we interviewed the responsible COs to establish the extent of their involvement in the COTRs' evaluation process. We determined that the COTRs' supervisors did not solicit information from the COs about the COTRs' performance, and that while the COs do make themselves readily available to answer COTRs' questions as they are carrying out their contract



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oversight duties, COs do not directly monitor the responsibilities that they have delegated to their COTRs. This absence of oversight could prevent them from providing any practical performance information to assist both the COTR in the performance of their delegated responsibilities and the manager in evaluating their COTR employee.

Individuals unofficially performing COTR duties are not being evaluated on these responsibilities

We also found that program office supervisors, who had employees unofficially performing COTR responsibilities, have not had any formal COTR or contract management training to fully understand the scope of the COTRs' responsibilities. As a result, there is no basis for them to evaluate their employees' COTR activities. Our review of each program office employees' annual performance evaluation narrative showed that only 1 of the 36 employees was specifically documented for their contract management activities regarding the performance of receipt and acceptance of contract deliverables. In fact, program office supervisors routinely made no mention of whether their staffers were properly evaluating and certifying contractor performance; reviewing and approving invoices; providing technical guidance; and acting as the liaison between the program office, the CO, and the contractor after assigning them an unofficial COTR role. Some program office supervisors simply viewed their employees' contract management duties broadly as a "collateral duty."

Consequently, these supervisors seldom captured these critical contract management activities when preparing their employees' annual performance appraisals. If IRS employees are improperly performing this task, the IRS could be receiving goods and services that fail to meet contract performance requirements. However, since this issue was not documented in the employees' performance evaluations, there is no accountability or acknowledgement of employees if they are not effectively performing their COTR duties. In addition, without the responsible CO providing feedback on the staff involved on their specific contracts (including both formally delegated COTRs and program office personnel), there is no assurance that IRS employees are properly performing their contract management duties including ensuring that contract terms and conditions are being met, deliverables are timely, and taxpayer funds are being properly expended. If COTRs or program office personnel are not properly performing their duties, they may need additional formal training or guidance from the COs. To allow employees to continue to perform at a suboptimal level without providing feedback or coaching is an ineffective management practice. It also presents a risk to the taxpayers that these COTRs, who collectively have the responsibility for approving millions of dollars of contract invoices annually, may be unknowingly authorizing payment for incomplete work or overbillings by the contractor.



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Recommendation

Recommendation 4: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should ensure their supervisors are knowledgeable of the oversight requirements for the contracts their employees are assigned to monitor and evaluate all aspects of their employees' contract management performance. In addition, IRS management should amend their annual employee evaluation documents to include employee contract management responsibilities in the critical job elements and position description standards for all employees performing COTR responsibilities. Finally, the responsible CO should provide input to the performance evaluations of IRS staff performing contract management duties on their contracts.

Management's Response: The IRS agreed with the recommendation in part. The IRS agreed that the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should ensure their supervisors are knowledgeable of the oversight requirements for the contracts their employees are assigned to monitor. To facilitate this transfer of knowledge, the Office of Procurement will develop a computer-based training module to communicate the oversight requirements and responsibilities for managers of COTRs and receiving officials.

The Office of Procurement will modify the letter of appointment to include the responsibilities of supervisors, as well as a signature line for the supervisor, signifying their understanding of these responsibilities and the oversight requirements for the contracts their employees are assigned to monitor.

The IRS respectfully disagreed with the recommendation to amend annual employee evaluation documents to include employee contract management responsibilities in the critical job elements and position description standards for all employees performing COTR responsibilities. The IRS stated that because COTR is not a job title or a job series, and COTRs hold many different positions throughout the Service, IRS management cannot amend COTR annual employee evaluation documents for all employees performing COTR duties. These COTR duties are considered "other duties as assigned" in the various position descriptions. IRS Procurement subsequently clarified one part of their disagreement and agreed that the COTR's supervisor should discuss performance of contract management duties in the COTR's performance appraisal narrative.

The IRS respectfully disagreed with the recommendation for COs to provide input to the performance evaluations of IRS staff performing contract management duties on their contracts. Article 12, Section 4.B.1. of the National Agreement states, "The Employer has determined that bargaining unit employees (e.g., Leads) may report to a supervisor what they have observed involving the performance of workload assigned to the employees of their work group." Most COs are bargaining unit employees but are



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usually not members of the same work group as the COTR, nor are they often the lead of a work group which includes the COTR. Therefore, to be in compliance with the National Agreement, COs cannot provide input to the performance evaluations of IRS staff performing contract management duties.

Office of Audit Comments: We agree with the IRS' corrective action to provide specific training to ensure that supervisors are knowledgeable of their oversight responsibilities for the contracts their employees are assigned to monitor. However, the IRS response does not indicate whether this training will be required training for all supervisors of COTRs and receiving officials. We believe it should be. We also agree with the corrective action of modifying the COTR letter of appointment to include the supervisor's responsibilities as well as their signature acknowledging their understanding of these responsibilities and the oversight requirements for the contracts their employees are assigned to monitor. Regarding the issue of allowing COs to provide input to the appraisals of COTRs or receiving officials, we are concerned that the IRS' actions of training supervisors on how to evaluate their employee's performance of COTR or receiving official duties will not be sufficient to provide appropriate performance feedback and accountability. We recognize the terms of the collective bargaining agreement are controlling and that the IRS is contractually obligated to adhere to its terms. We would note, however, that the IRS could attempt to negotiate different terms to the collective bargaining agreement at the next available opportunity. The quality and effectiveness of the Federal Government acquisition process depends on an accountable acquisition workforce. We believe the COTRs' receipt of performance feedback from the responsible CO is critical to that outcome.

Newly Selected and Less Experienced Contracting Officer's Technical Representatives Are Not Adequately Trained

The designated IRS Acquisition Chief Officer is responsible for ensuring that the acquisition workforce is adequately trained to perform their jobs. The IRS has taken positive steps to improve its formally delegated COTR personnel by initiating the following:

- Establishing a mandatory training program for all employees designated as COTRs to complete the required professional certification.
- Setting standard time periods for COTRs to take this training when they are assigned contract actions exceeding the simplified acquisition threshold of \$100,000.
- Utilizing curriculum developed by the Treasury Acquisition Institute for COTRs to improve their acquisition skills.
- Promoting an annual COTR recognition program that celebrates and honors outstanding employees performing their jobs.



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- IRS Procurement management periodically meeting with their COTR workforce to discuss and address any employee concerns.

However, the IRS needs to develop a formal on-the-job process for supporting newly selected and less experienced COTRs that have minimal contract management experience. Some managers informally provided on-the-job support for less experienced or newly selected COTRs, but this practice needs to be consistently applied across the IRS program offices with a more formal structure. Our interviews with newly selected COTRs located in the IRS field offices²¹ indicated that they were unaware of COTR procedure and guidance information that was available to them on the IRS intranet, and they did not fully understand some of the COTR responsibilities listed in their letter of delegated authority. We believe that an on-the-job support program would assist in ensuring that all COTRs are aware of the available guidance and fully understand their COTR duties.

In addition, more frequent interaction with the COs and with other Federal Government employees working on similar contracts will assist the COTRs in better performing their assignments. Unless management provides these newly selected or less experienced COTRs with formal training in compliance with certification requirements²² as well as consistent ongoing on-the-job style coaching and support, these less experienced COTRs are less likely to ensure that goods/services are received in accordance with terms of the contract and with cost and/or schedule requirements. This is critical because COTRs are often the primary internal control and the “last line of defense” to ensure that contractors are meeting the terms of the contract.

While we did not review American Recovery and Reinvestment Act of 2009 procurements as part of this review, the importance of effective COTR oversight to mitigate the Government’s risk on any contract is crucial. Any actions taken by the IRS to strengthen controls over contract administration will enable the IRS to have more assurance that the Government’s interest is protected for contracts awarded with American Recovery and Reinvestment Act of 2009 funds.

Recommendation

Recommendation 5: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should ensure that consistent ongoing on-the-job support for newly selected or less experienced COTRs, both in the Office of Procurement and the program offices, is provided to enable the COTRs to learn and effectively perform their responsibilities.

²¹ See Appendix IV for a list of the field offices included in this review.

²² Office of Procurement Policy Memorandum, the Federal Acquisition Certification for Contracting Officer Technical Representatives, dated November 26, 2007. This training reflects recommendations from an interagency working group led by the Federal Acquisition Institute and applies to all executive agencies, except those subject to the Defense Acquisition Workforce Improvement Act.



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Management's Response: The IRS agreed with the recommendation. In Fiscal Year 2009, the Office of Procurement officially launched the online IRS Procurement 101 Reference Guide to include an entire section dedicated to providing valuable resources and information to assist COTRs with learning and effectively performing their responsibilities.

The Office of Procurement will continue to provide COTR training and continuous learning opportunities in accordance with the Government-wide Federal Acquisition Certification in contracting policy and maintains a dedicated program staff to process certifications and answer training and certification-related questions.

In addition, the Office of Procurement's internal guidance will be updated to include a requirement for all COs to meet with COTRs upon appointment and on a periodic basis following appointment and to review COTR files annually and to document the meetings.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review is to determine whether the IRS' COTRs are properly managed and functioning in a manner, as directed by the responsible COs and applicable guidance, which will ensure that goods/services are received in accordance with the terms of the contracts and within the cost and/or schedule requirements. To accomplish our objective, we:

- I. Became familiar with the IRS' post-contract award¹ activities, processes, and risks associated with the COTR role.
 - A. Obtained an understanding of the COs' and COTRs' contract administration roles based on IRS written policies and procedures.
 - B. Interviewed COTRs, COs, and other procurement and project personnel, as necessary, and confirmed our understanding of the procedures for governing the COs' and COTRs' roles during the contract administration process.
 - C. Documented the risks and identified the controls to minimize those risks associated with the COTRs' role to perform their job, communicate with key players (the CO, contractor, and customer), receive needed training, and be well qualified for the designated contracting assignment.
 - D. Obtained an example of a COTR Certificate of Responsibilities as prepared by a CO.
 - E. Received a list from the Office of Procurement of the 201 COTRs who served on approximately 662 task/delivery orders from 1,250 contract actions that were awarded between August 2002 and February 2008.
 - F. Prepared a sampling plan outlining the method to select a sample of COTRs and contracts for review. We chose the random method of sampling to ensure non-bias in the review. We randomly selected a sample of 37 COTRs from the population of 201 current IRS Office of Procurement COTRs. These 37 COTRs were assigned 61 contract actions totaling \$54.3 million. Because 6 of the 37 randomly selected COTRs had either retired, left the IRS, or had no contract responsibilities, only 31 COTRs were included in our review. The 31 COTRS were assigned to 54 contract actions, totaling \$45.1 million. We examined whether the COTRs were performing their post-award responsibilities. We selected up to three contracts for each COTR

¹ All needed actions on the contract after it has been awarded such as the daily administration of fiscal and technical aspects of the contract that ensure its terms and conditions are met.



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- based upon the contract type, contract value, and the number of multiple contract actions assigned to each COTR.
- II. Determined whether COTRs are effectively performing their contract administrative duties in accordance with IRS policies and procedures to ensure that contracts are properly managed to meet the IRS' needs.
 - A. For all COTRs and contracts included in the sample, assessed CO and COTR contract files and determined whether the following contract administrative activities were documented to protect the Federal Government's interest:
 - 1. Performance of invoice verification in compliance with IRS policies and procedures.
 - 2. Monitoring of contract expenditures.
 - 3. Interaction with contractors to observe their work activities and progress on deliverables, including frequently submitted status reports to the COTR.
 - 4. Performance of inspections and the receipt and acceptance of product deliverables.
 - III. Determined whether the IRS effectively provided COTRs with the necessary training needed to perform their job or improve their job performance.
 - A. Identified that a COTR review group exists to identify COTR training needs.
 - B. Confirmed that COTRs are in compliance with IRS Memorandum 1.6(C), Appointment of Contracting Officer's Technical Representatives (COTRs) and Alternate COTRs, dated January 1, 2008.
 - IV. Determined whether the IRS has effectively provided oversight of the post-award activities.
 - A. Determined whether the CO and the first-line manager overseeing the COTRs adequately evaluated them on their contract administration duties.
 - B. Determined whether COTR evaluations were performed on an annual basis, documented their performance of specific contract tasks, included positive or negative feedback on the COTRs' performance, and involved follow up on negative evaluations.
 - V. Determined whether the IRS has effectively evaluated the performance of the COTRs by reviewing the appropriate documentation and/or information needed to assess the performance of COTRs on post-award contracts.



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Appendix II

Major Contributors to This Report

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Seth Siegel, Acting Audit Manager
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Chinita Coates, Auditor
Melvin Lindsey, Auditor
Niurka M. Thomas, Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Commissioner, Large and Mid-Size Business Division SE:LM
Commissioner, Small Business/Self-Employed Division SE:S
Commissioner, Tax Exempt and Government Entities Division SE:T
Commissioner, Wage and Investment Division SE:W
Director, Procurement OS:A:P
Director, Financial Management Services OS:CTO:M:FM
Chief, Agency-Wide Shared Services OS:A
Chief Human Capital Officer OS:HC
Chief Technology Officer OS:CTO
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaisons:
Deputy Commissioner for Operations Support OS
Deputy Commissioner for Services and Enforcement SE
Commissioner, Large and Mid-Size Business Division SE:LM
Commissioner, Small Business/Self-Employed Division SE:S
Commissioner, Tax Exempt and Government Entities Division SE:T
Commissioner, Wage and Investment Division SE:W
Chief, Agency-Wide Shared Services OS:A
Chief Human Capital Officer OS:HC
Chief Technology Officer OS:CTO
Director, Financial Management Services OS:CTO:M:FM
Director, Collection, Small Business/Self-Employed Division SE:S:C
Director, Procurement OS:A:P



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Appendix IV

**Selected Contracting Officer's Technical
Representatives Interviewed, by Internal Revenue
Service Business Division and Field Office Locations**

3(d)

Business Divisions	Field Office Locations								
	California	Illinois	Maryland	Michigan	Ohio	Texas	Washington, D.C.	West Virginia	
	1		9		1			2	
		1		1			1		
				2			1		
			1						
				1		1	2		2
			2				3		
Totals	1	3	11	3	2	5	2	4	

Total COTRs Interviewed = 31.

Auditor's note: Chief Counsel offices were located in both the Large and Mid-Size Business and Small Business/Self-Employed Divisions.



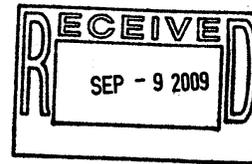
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Appendix V

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224



September 9, 2009

MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: David A. Grant *David A. Grant*
Chief, Agency-Wide Shared Services

SUBJECT: Draft Audit Report – Controls Over the Contracting Officer's
Technical Representatives Workforce Were Ineffective,
Resulting in Significant Risks to the Government
(Audit # 200810031)

Thank you for the opportunity to respond to the subject audit report. The audit was conducted to determine whether the IRS Contracting Officer's Technical Representatives (COTRs) are properly managed and functioning in a manner which will ensure that goods/services are received in accordance with the terms of the contracts and within the cost and/or schedule requirements. Our response is attached.

The audit review cites that 31 COTRs, who were responsible for the oversight of 54 contract actions, were not performing all of their COTR oversight duties. Issues around proper receipt and acceptance and training were also cited in the report.

We agree guidance is needed to ensure the IRS provides appropriate contract monitoring to reduce acquisition risk and an increase in communication and training are needed for all COTRs. As described in the attached response, we respectfully disagree with part of Recommendation 4 requesting amendments to annual employee evaluation documents for all employees performing COTR responsibilities, and for Contracting Officers (COs) to provide input to performance evaluations of IRS staff performing contract management duties on their contracts.

We appreciate your continued support and the valuable assistance and guidance your team provides. If you have any questions, please contact me or a member of your staff may contact Fred W. Martin, Director, Procurement, at (202) 283-1200.

Attachment



*Controls Over the Contracting Officer's Technical
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1

RECOMMENDATION #1: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should establish and implement cross-cutting guidance that effectively ensures that the IRS provides appropriate contract monitoring to reduce acquisition risks. The remaining recommendations (2 through 5) cover various aspects of this cross-cutting guidance and should be included in the final guidance as well.

CORRECTIVE ACTION TO RECOMMENDATION: We concur with this recommendation. The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement will communicate the importance of the COTR role in a Service wide memorandum emphasizing the importance of proper contract administration and contract monitoring.

As required by the Office of Procurement, Policy and Procedures (P&P) Memorandum No. 1.1, Procurement Policy Framework, the Office of Procurement Policy reviews all P&Ps and updates or cancels them as necessary prior to each new calendar year. P&P No. 4.1, File Content Checklists will be updated for calendar year 2010 to include a section for COTR communication documentation.

IMPLEMENTATION DATE: February 15, 2010

RESPONSIBLE OFFICIAL: Director, Procurement, OS:A:P

CORRECTIVE ACTION MONITORING PLAN: The Director, Procurement, will draft the memorandum to be disseminated Service wide for the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement. In addition, the Office of Procurement will be conducting contract file quality reviews beginning in calendar year 2010 to include a review of the COTR communication section.



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2

RECOMMENDATION #2: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should identify all IRS employees agency-wide performing COTR-related duties and ensure that they are formally delegated authority by the responsible CO on their procurement duties, appropriately trained, and certified in accordance with Federal acquisition requirements.

CORRECTIVE ACTION TO RECOMMENDATION: We concur with this recommendation. P&P No. 1.6(C) requires that COs appoint a qualified COTR for all contractual actions exceeding the simplified acquisition threshold (SAT) (\$100,000) by issuing a signed letter of appointment tailored to meet the needs of each contractual action assigned. P&P No.1.6(C) also requires that COs ensure COTRs meet the requirements of the Federal Acquisition Certification for COTRs (FAC-COTR); ensure that COTRs are registered web Request Tracking System (webRTS) users and have self-certified as an eligible COTR in their webRTS user profile; and designate COTRs in the web Integrated Procurement System (webIPS) for all contractual actions exceeding the SAT. Upgrades made to the webRTS system in fiscal year 2008 included a feature that provides the capability to generate a report identifying all COTRs formally delegated authority for contractual actions by the responsible CO.

To ensure receiving officials and COTRs, Service wide, are trained appropriately on the responsibilities for receipt and acceptance (R&A) in webRTS and the differences between R&A, the Office of Procurement will design, develop and implement a computer-based training (CBT) module that will be available through the Enterprise Learning Management System (ELMS) for all webRTS users performing R&A.

IMPLEMENTATION DATE: December 15, 2010

RESPONSIBLE OFFICIAL: Director, Procurement, OS:A:P

CORRECTIVE ACTION MONITORING PLAN: To be appointed as a COTR, employees in all executive agencies must meet the training requirements of FAC-COTR and P&P No. 1.6(C) requires that COs review COTR nominations to determine if the training requirements are in accordance with FAC-COTR. Once developed and implemented, successful completion of the webRTS R&A CBT will be required for (a) all COTRs to achieve and maintain FAC-COTR certification and (b) all webRTS users.



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RECOMMENDATION #3: The Director, Procurement, should reevaluate the IRS' current approach and expand the reviews of COTR contract files to ensure that reviews are routinely performed to substantiate that relevant, accurate, and complete documentation is being received, verified, and retained to support the contractor's billed expenses.

CORRECTIVE ACTION TO RECOMMENDATION: We concur with this recommendation. P&P No. 1.6(C) requires that COs appoint a qualified COTR for all contractual actions exceeding the SAT by issuing a signed letter of appointment and includes a link to the template for the letter of appointment. One of the main duties listed in the letter of appointment requires COTRs to maintain an organized contract administration file. The Director, Procurement, will develop a standard COTR contract administration file checklist and include the requirement in the letter of appointment that COTR files be maintained in accordance with the checklist.

As required by the Office of Procurement, P&P No. 1.1, Procurement Policy Framework, the Office of Procurement Policy reviews all P&Ps and updates or cancels them as necessary prior to each new calendar year. P&P No. 1.6(C), Appointment of COTRs and Alternate COTRs, will be updated to include a requirement for all COs to meet with COTRs upon appointment and on a periodic basis following appointment and to review COTR files annually to ensure that files are maintained in accordance with the checklist. In addition, the Office of Procurement will develop IRS specific training for COTRs on roles and responsibilities including how to maintain their contract administration files and IRS specific training for 1102 series employees on how to review COTR contract administration files. A CBT module of the IRS specific training for COTRs will be made available through ELMS.

IMPLEMENTATION DATE: December 15, 2010

RESPONSIBLE OFFICIAL: Director, Procurement, OS:A:P

CORRECTIVE ACTION MONITORING PLAN: Once developed and implemented, successful completion of the IRS specific COTR training for COTRs on roles and responsibilities, including how to maintain their contract administration files, will be required for all COTRs to achieve and maintain FAC-COTR certification. Once developed and implemented, IRS specific training for 1102 series employees on how to review COTR contract administration files will also be mandatory.



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RECOMMENDATION #4: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should ensure their supervisors are knowledgeable of the oversight requirements for the contracts their employees are assigned to monitor and evaluate all aspects of their employees' contract management performance. In addition, IRS management should amend their annual employee evaluation documents to include employee contract management responsibilities in the critical job elements (CJEs) and position description standards for all employees performing COTR responsibilities. Finally, the responsible CO should provide input to the performance evaluations of IRS staff performing contract management duties on their contracts.

CORRECTIVE ACTION TO RECOMMENDATION: We concur that the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should ensure their supervisors are knowledgeable of the oversight requirements for the contracts their employees are assigned to monitor. To facilitate this transfer of knowledge, the Office of Procurement will design and develop a CBT module to communicate the oversight requirements and responsibilities for managers of COTRs and receiving officials. The CBT will be made available on ELMS.

P&P No. 1.6(C) requires that COs appoint a qualified COTR for all contractual actions exceeding the SAT by issuing a signed letter of appointment and includes a link to the template for the letter of appointment. The Office of Procurement Policy will modify the letter of appointment to include the responsibilities of supervisors as well as a signature line for the supervisor signifying their understanding of these responsibilities and the oversight requirements for the contracts their employees are assigned to monitor.

We respectfully disagree with the recommendation to amend annual employee evaluation documents to include employee contract management responsibilities in the CJEs and position description standards for all employees performing COTR responsibilities. Because COTR is not a job title or a job series, and IRS COTRs hold many different positions throughout the Service, IRS management cannot amend COTR annual employee evaluation documents for all employees performing COTR duties. COTR duties are considered "other duties as assigned" in the various position descriptions.

We respectfully disagree with the recommendation for COs to provide input to the performance evaluations of IRS staff performing contract management duties on their contracts. Article 12, Section 4.B.1 of the National Agreement states, "The Employer has determined that bargaining unit employees (e.g., Leads) may report to a supervisor what they have observed involving the performance of workload assigned to the employees of their work group." Most COs are bargaining unit employees but are usually not members of the same workgroup as the COTR. Nor are they often the lead of a workgroup which includes the COTR. Therefore, to be in compliance with the



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National Agreement, COs cannot provide input to the performance evaluations of IRS staff performing contract management duties.

IMPLEMENTATION DATE: December 15, 2010

RESPONSIBLE OFFICIAL: Director, Procurement, OS:A:P

CORRECTIVE ACTION MONITORING PLAN: Once developed and implemented, the CBT module to communicate the oversight requirements and responsibilities for managers of COTRs will be maintained and made available Service wide on ELMS.



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RECOMMENDATION #5: The Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement should ensure that consistent ongoing on-the-job support for newly selected or less experienced COTRs, both in the Office of Procurement and the program offices, is provided to enable the COTRs to learn and effectively perform their responsibilities.

CORRECTIVE ACTION TO RECOMMENDATION: We concur with this recommendation. In Fiscal Year 2009, the Office of Procurement officially launched the online IRS Procurement 101 Reference Guide (<http://sai.ds.irsnet.gov/sites/sai/p101-gap/p101/cotr/p101cotr.aspx>) to include an entire section dedicated to providing valuable resources and information to assist COTRs with learning and effectively performing their responsibilities.

The Office of Procurement will continue to provide COTR training and continuous learning opportunities in accordance with the government-wide Federal Acquisition Certification in Contracting (FAC-COTR) policy and maintains dedicated FAC-COTR Program staff to process certifications and answer training and certification related questions.

As required by the Office of Procurement, P&P No. 1.1, Procurement Policy Framework, the Office of Procurement Policy reviews all P&Ps and updates or cancels them as necessary prior to each new calendar year. P&P No. 1.6(C), Appointment of COTRs and Alternate COTRs, will be updated to include a requirement for all COs to meet with COTRs upon appointment and on a regular basis following appointment and to review COTR contract administration files annually. In addition, P&P No. 4.1, File Content Checklists will be updated for calendar year 2010 to include a section for COTR communication documentation to contain records of kick-off and periodic meetings.

IMPLEMENTATION DATE: February 15, 2010

RESPONSIBLE OFFICIAL: Director, Procurement, OS:A:P

CORRECTIVE ACTION MONITORING PLAN: The Office of Procurement will be conducting contract file quality reviews beginning in calendar year 2010 to include a review of the COTR communication section.