



*The Growing Number of Requests for
Procurement Actions at Yearend Increases
the Risk of Inefficient and Ineffective
Spending*

September 24, 2007

Reference Number: 2007-10-181

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 24, 2007

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – The Growing Number of Requests for
Procurement Actions at Yearend Increases the Risk of Inefficient and
Ineffective Spending (Audit # 200710004)

This report presents the results of our review of yearend spending. The overall objective of this review was to determine whether the Internal Revenue Service (IRS) is efficiently managing its fiscal yearend spending. This audit was part of our Fiscal Year (FY) 2007 annual audit plan and was requested by the IRS Director, Office of Procurement.

Impact on the Taxpayer

IRS fiscal yearend procurements are increasing dramatically. Our analysis of commitments for a 5-year period¹ showed that the trend for spending at fiscal yearend is on the rise. Inefficient and ineffective procurement actions can occur when there is a rush to use funds before they expire at fiscal yearend. This rush increases the risk that items purchased may not meet the requester's need, thus requiring a second procurement action; were not obtained at the best possible price; or did not use the best vendor or type of contract because Office of Procurement (Procurement) personnel do not have the time necessary to perform a full contractor competition process. Therefore, funds may be spent inefficiently and ineffectively (i.e., not in the best interest of the Federal Government or the American taxpayer).

Synopsis

In FY 2002, the dollar value of commitments for the month of September was \$17 million. In contrast, for FY 2006, the value of commitments for September was more than \$131 million, an

¹ FYs 2002 – 2006.



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increase of 671 percent. Similarly, the number of September commitments also increased by approximately 29 percent, from 1,182 in FY 2002 to 1,529 in FY 2006. While both Procurement and the IRS business units believe they have been able to satisfactorily manage fiscal yearend procurements so far, the issue has reached a possible critical limit.

If the trend for spending at fiscal yearend on procurement actions continues to increase, there is a strong risk that Procurement will eventually be unable to handle the workload. Procurement used overtime to complete its required procurement actions before the end of each year included in our review. However, in the future, the IRS could be facing the difficult situation of obtaining items that do not meet requirements or are not needed, resulting in wasteful spending or having to allow the funds to expire and no longer be available to the IRS. We believe neither situation is acceptable. Given the current situation, the IRS needs to exercise better business practices when making budgetary decisions and planning for fiscal yearend procurement activities that would reduce the risk of inefficient and ineffective spending.

In addition to these trends, we identified deficiencies with 14 (15 percent) of 92 procurement actions² awarded in August and September 2006. We believe appropriations regulations may have been violated for 4 of the actions, while all required acquisition steps were not completed for the remaining 10 actions.

Recommendations

We recommended the Deputy Commissioner for Operations Support, with support, assistance, and input from the Deputy Commissioner for Services and Enforcement, ensure business unit fiscal yearend procurement budgetary decisions and planning are performed in a manner that results in the early involvement of Procurement in the acquisition process, so Procurement can better manage its workload at fiscal yearend. The Director, Procurement, should review the 14 actions noted in this audit and ensure all acquisition steps were completed and fully documented in the contract files. Specifically, comments should be made explaining the acceptance or nonacceptance of the possible procurement regulation violations identified by this audit. In addition, the Director, Procurement, should reinforce with Procurement personnel the importance of completing all acquisition steps and issue guidance to the business units regarding the requirements governing the use of appropriate fiscal year funding.

Response

IRS management agreed with our recommendations. A cover memorandum signed by the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement will be attached to the Advanced Acquisition Planning Information Request and

² A procurement action can be a contract, contract modification, delivery/task order, etc.



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Transmittal. This memorandum will be distributed throughout each business unit and will emphasize the importance of teaming with Procurement at the earliest stages of the acquisition life cycle. In addition, Procurement plans to provide both Deputy Commissioners a monthly report detailing the comparative percentages of funds committed and obligated by each business unit.

Procurement completed a review of each of the 14 actions and will place a Memo for the Record in each contract file acknowledging acceptance of the violation for 13 of the actions. For the remaining action, which totaled \$51,120, Procurement's review showed the services being acquired were nonseverable. Therefore, the funds were obligated in the appropriate fiscal year. We accept Procurement's review results as positive action taken in response to our recommendation.

In addition, where applicable, Procurement plans to complete previously overlooked acquisition steps. The Director, Procurement, also plans to issue an email reminder to all Procurement personnel advising them of the importance of adhering to procurement regulations and policies at all times. Finally, Procurement plans to develop a discussion paper regarding bona fide need and discuss the topic at the Acquisition Planning Conference. Management's complete response to the draft report is included as Appendix V.

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 (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.



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Abbreviations

FY	Fiscal Year
IRS	Internal Revenue Service



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Background

Federal Government agencies generally receive a new budget each fiscal year¹ and are responsible for managing the funds to run their operations and to obtain goods and services. As a general rule, funds must be obligated² before the end of the fiscal year, or the funds will expire and no longer be available to that agency.

Inefficient yearend spending can occur when there is a rush to use funds at the end of the fiscal year before the funds expire and can no longer be used.

If a Federal Government agency needs to purchase an item, several steps must occur, depending on the dollar value of the item. Within the Internal Revenue Service (IRS), purchases are generally processed through the IRS Office of Procurement (Procurement). Various offices throughout the IRS will submit requests to Procurement to purchase a particular item. Procurement is responsible for researching different contractors, selecting the appropriate one, purchasing the item, and approving the invoice(s) for payment. The contractor provides the item directly to the requesting office.

Procurement activity is governed by numerous regulations and policies designed to protect the public's interest and ensure procurement actions³ are performed in the most efficient and effective manner. In general, this would include the accurate definition of requirements to ensure the requester's needs are satisfied, meaningful contractor negotiations to ensure the ability to obtain the best possible price, and adequate time to perform a full contractor competition process to ensure the selection of the best contract type.

¹ Congress makes funds available for expenditure by means of appropriation acts or continuing resolutions. An appropriation is the authority given to Federal Government agencies to incur expenses and make payments from the Department of the Treasury for specified purposes. A continuing resolution provides budget authority to continue operations until appropriations are enacted. Continuing resolutions are enacted when action on appropriations is not completed by the beginning of the fiscal year.

² Procurement actions are recorded in two steps: commitment and obligation. A commitment is a reservation of funds prior to the obligation of funds. Typically for procurement actions (purchase orders, contracts, etc.), a commitment is created by a purchase requisition. This action sets aside sufficient funds to cover the cost of the purchase. The funds remain committed until the obligation is made or the commitment is cancelled. An obligation is a binding agreement that will result in fund disbursements immediately or in the future. Funds are obligated when procurement actions are awarded. The funds are spent as invoices are received from the vendor for goods and services provided to the IRS.

³ A procurement action can be a contract, contract modification, delivery/task order, etc.



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The Federal Acquisition Regulation⁴ provides uniform policies and procedures for acquisitions by executive agencies of the Federal Government. The Department of the Treasury Acquisition Regulation also includes policies and procedures to assist in processing Department of the Treasury acquisitions. In addition, the IRS has issued policies and procedures memoranda regarding the acquisition process.

The IRS Request Tracking System⁵ contained 17,467 commitments, totaling approximately \$1.9 billion, for Fiscal Year (FY) 2006. Approximately 14 percent of these commitments occurred in the last 2 months of the fiscal year. Additionally, the Request Tracking System contained 12,530 obligations, totaling approximately \$1.8 billion, for FY 2006, with more than 27 percent of these obligations occurring in the last 2 months of the fiscal year.

This review was performed at the Office of Procurement in the Office of Agency-Wide Shared Services in Oxon Hill, Maryland, during the period January through May 2007. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁴ 48 C.F.R. ch. 1 (2005).

⁵ The Request Tracking System is a web-based application that allows IRS personnel to prepare, approve, fund, and track requests for the delivery of goods and services.



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Results of Review

Fiscal yearend procurements have increased dramatically over the last 5 fiscal years, both in dollar value and number of requests. Procurement actions made in the last month of the fiscal year (September) represent a high risk, especially because there is limited time to process the actions and required steps must be taken. While both Procurement and the IRS business units believe they have been able to satisfactorily manage fiscal yearend procurements so far, this issue has reached a possible critical limit. Based on this trend, the IRS could exercise better business practices when making budgetary decisions and planning for fiscal yearend procurement activities, resulting in more efficient and effective spending. Our analysis identified two conditions that indicate IRS management needs to make changes in this area as soon as possible. First, there has been a trend of increasing requests for fiscal yearend procurement actions; second, there have been fiscal yearend procurement actions for which all required acquisition steps were not completed.

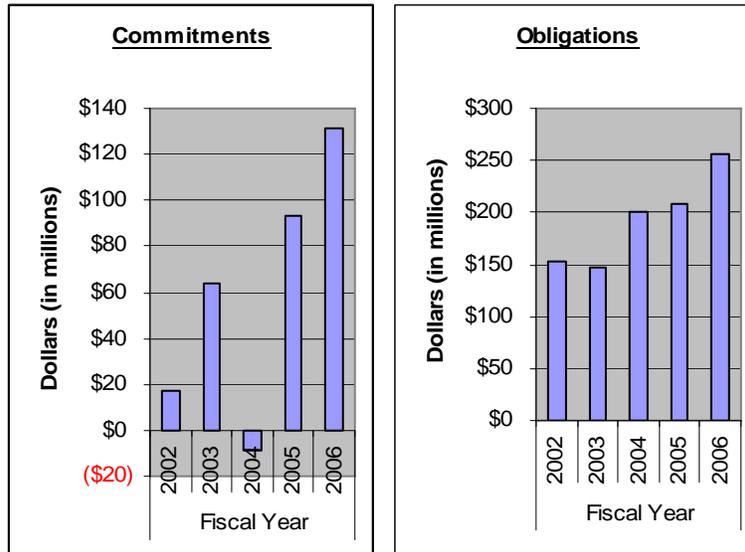
Fiscal Yearend Requests for Procurement Actions Have Been Increasing

Our analysis of commitment and obligation rates for a 5-year period, FYs 2002 through 2006, showed that requests to expend funds for procurement actions at fiscal yearend have been increasing dramatically. In FY 2002, the value of commitments in the Request Tracking System for September was \$17 million. In contrast, for FY 2006, the value of commitments for September was more than \$131 million, an increase of 671 percent. Figure 1 shows the value of commitments and obligations for September over the 5-year period.



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Figure 1: Commitment/Obligation Amounts for the Month of September (by fiscal year)



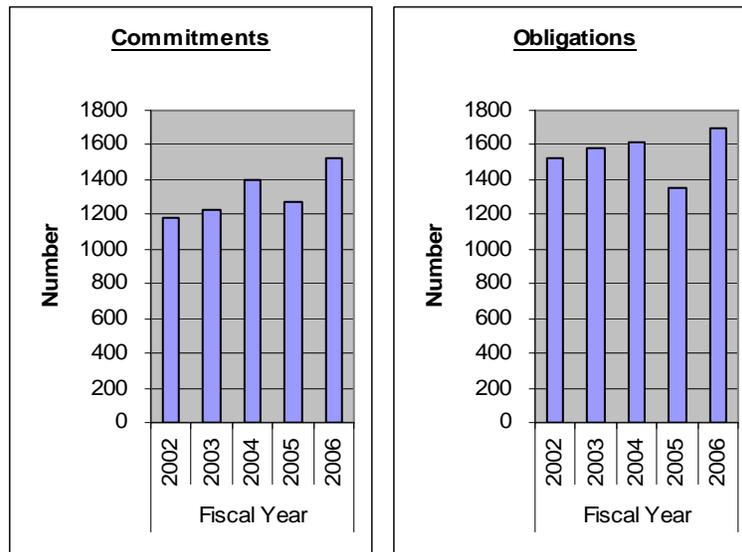
Source: Documentation from the Request Tracking System provided by Procurement.

In addition, the number of commitments increased by approximately 29 percent, from 1,182 in FY 2002 to 1,529 in FY 2006. Figure 2 shows the number of commitments and obligations for September over the 5-year period.



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Figure 2: Commitment/Obligation Numbers for the Month of September (by fiscal year)



Source: Documentation from the Request Tracking System provided by Procurement.

Procurement officials expressed concerns with the rising dollar value of commitments at fiscal yearend, which significantly increases the workload for Procurement in the last month of the fiscal year. Procurement officials also expressed concern that, because of the number of requests they receive at fiscal yearend, they believed they were not getting as much savings as they could if they had had more time to define requirements, negotiate with the contractors, and select the adequate type of contract.

In addition, Procurement officials stated that many of the requisitions submitted by the business units are incomplete. We could not identify this as an issue because the Procurement files we reviewed did not contain any documentation that business unit requests were inaccurate, incomplete, or untimely. Procurement officials explained that information regarding poorly submitted requests would not be documented in the contract because this issue occurs before a contract file is created. Procurement officials did agree to consider having these poorly submitted requests documented on the Request Tracking System. Poorly submitted requests affect Procurement's efficient and effective use of resources because Procurement personnel need to send the requisitions back to the business units or work with the business units to obtain all the necessary information.

An increase in spending at fiscal yearend is not a new condition for IRS management, and there have been attempts to try to reduce the need for September procurements. Each year, the Chief Financial Officer and the Chief, Agency-Wide Shared Services, issue a memorandum to the business units explaining the fiscal yearend process. In FY 2006, the memorandum was



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issued on February 13, 2006. It provided the dates by which spending plans were due to the Chief Financial Officer and when commitments needed to be in the Request Tracking System for Procurement to process them by fiscal yearend. The Director, Procurement, also issues a memorandum regarding acquisition planning dates each year. This memorandum provides requisition due dates for various types of contractual vehicles.

However, as shown in Figures 1 and 2, these joint actions have not been effective. To explain this condition, Chief Financial Officer officials offered that the spike at the end of the year is normal and most of the business unit managers will be conservative and not spend all their funds early in the year. In addition, some funds may not become available until the end of the fiscal year when the various IRS offices determine they do not need all the funds they initially anticipated. Further, Procurement and business unit personnel indicated that budgetary continuing resolutions are a contributing factor to the increased fiscal yearend spending. These continuing resolutions affect the IRS' ability to initiate procurement actions earlier in the year. Figure 3 presents the continuing resolutions and the dates on which budget appropriations were passed for the IRS.

Figure 3: Continuing Resolutions (by fiscal year)

Fiscal Year	Date Appropriation Was Passed
2002	1/10/2002
2003	2/20/2003
2004	1/31/2004
2005	12/08/2004
2006	12/31/2005

Source: Documentation provided by Procurement.

During a continuing resolution, the IRS has limits on the use of its funds. For instance, new programs or initiatives cannot be started, and IRS guidance indicates that funded contracts should be "mission critical" items or services that, if not obligated or paid for during the continuing resolution, would greatly diminish service to taxpayers or tax law enforcement.

We understand the need to expend funds at the end of the fiscal year. However, we believe any rush to use funds before they expire increases the risk of inaccurate definition of requirements, resulting in the item purchased not meeting the requester's need and completion of another procurement action. It may also result in less meaningful contractor negotiations that limit the IRS' ability to obtain the best possible price and inadequate selection of the contract type because Procurement personnel do not have the time necessary to perform a full contractor competition process.



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We believe good business practices dictate that the business units anticipate potential overages or excess funds that could be released at the end of the year and not wait until they are notified that funds are available before starting the research to prepare the procurement request. The better the business units are able to describe the requested item (e.g., what are the business needs, capacity, size), the easier it is for Procurement to identify the best vendor and price. If Procurement is involved in the fiscal yearend acquisition process as early as possible (i.e., when there are indications the funds could be released or shortly after funds are released), it can assist in planning the acquisitions by alerting the business units to the types of information needed for the request. This joint planning fosters accurate, complete, and timely requests for goods and services. In addition, involving Procurement early in the process will help Procurement manage its workload and satisfy its customers in terms of cost, quality, and timeliness of the delivered products or services.

If the trend for spending at fiscal yearend on procurement actions continues to increase, there is a strong risk that Procurement will eventually be unable to handle the workload. Procurement used overtime to complete its required procurement actions before the end of each year included in our review. However, in the future, the IRS could be facing the difficult situation of obtaining items that do not meet requirements or are not needed, resulting in wasteful spending or having to allow the funds to expire and no longer be available to the IRS. We believe neither situation is acceptable. Given the current situation, we believe IRS management has an opportunity now, before the situation gets out of control, to reduce fiscal yearend spending and intentionally plan for spending funds more equally throughout the fiscal year.

Recommendation

Recommendation 1: The Deputy Commissioner for Operations Support, with support, assistance, and input from the Deputy Commissioner for Services and Enforcement, should ensure business unit fiscal yearend procurement budgetary decisions and planning are performed in a manner that results in the early involvement of Procurement in the acquisition process, so Procurement can better manage its workload at fiscal yearend.

Management's Response: The IRS agreed with the recommendation. A cover memorandum jointly signed by the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement will be attached to the Advanced Acquisition Planning Information Request and Transmittal. The memorandum will be distributed throughout each business unit and will emphasize the importance of teaming with Procurement at the earliest stages of the acquisition life cycle. In addition, Procurement plans to provide both Deputy Commissioners a monthly report detailing comparative percentages of funds committed and obligated by each business unit.



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Fiscal Yearend Actions May Have Violated Appropriation Regulations and Were Being Awarded Without All Acquisition Steps Being Completed

The IRS may have violated appropriation regulations and did not ensure all steps were completed before awarding procurement actions at fiscal yearend. We selected 92 procurement actions awarded in August and September 2006 to determine whether all required steps were performed before the procurement actions were awarded.

Procurement regulations and policies require the IRS to perform various steps before awarding a procurement action. The required steps are based on the type of action and the dollar value of the action. For instance, the Federal Acquisition Regulation and IRS policy generally require that acquisition planning be documented in a written acquisition plan. In addition, post-procurement reviews are to be performed. The type and level of such reviews are dependent upon the amount of the procurement action.

We identified deficiencies with the award in 14 (15 percent) of the 92 actions. While these deficiencies did not involve significant dollar amounts, Procurement needs to ensure all the required steps are followed before awarding an action. These deficiencies included the following:

- Two awarded actions, totaling approximately \$186,000, appeared to use FY 2006 funds for work starting in FY 2007, which is prohibited. These actions should have been awarded using FY 2007 funds because a legitimate need in FY 2006 was not established. One of these actions had in place an existing contract that expired on September 30, 2006. The office requesting the action explained that this contract was not originally extended for FY 2007 and was set to expire on September 30, 2006. However, the contractor's expertise was still needed; therefore, a new action was awarded.
- Two actions were awarded as firm-fixed-price⁶ purchase orders. The orders were each awarded for approximately \$5,000 more than the quote that was provided by the vendor. The contracting officer explained that the business unit wanted the additional funds added at the time of award to cover any revisions or corrections that may be needed on the project. However, because these were firm-fixed-price orders, they should not have been awarded with the additional FY 2006 funds. If the orders needed to be modified for additional work in FY 2007, that year's funds should have been used at the time the modification occurred. No legitimate need was identified for the additional \$5,000 for these orders.

⁶ A firm-fixed-price contract is a type of contract providing for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.



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- One action, totaling approximately \$4.6 million, was awarded without an acquisition plan, a procurement review, and a tax check being completed. The contracting officer explained that this was an oversight because of the extensive number of procurement actions being processed at fiscal yearend.
- Three actions, totaling approximately \$11 million, included requests for post-award procurement reviews in the files. However, at the time of our review in February 2007, the reviews had not been performed as required. The contracting officers explained the reviews were overlooked and the actions would be presented for the required reviews immediately.
- Six actions, totaling approximately \$143,000, did not have a procurement review documented in the file before the award of the actions. The contracting officer explained that reviews on these six actions were completed before the awards, but the files were not documented until after the awards.

The contracting officers explained that in the rush to get actions awarded at the end of the fiscal year some things are overlooked. None of the contracting officers believed the integrity of any fiscal yearend procurements was compromised. In addition, business unit personnel stated that it is not a deliberate decision to wait until the end of the fiscal year to make purchases. However, at times, funding becomes available at the end of the year for projects that originally did not have any funding.

The business units need to be cautious in how they are using these funds. The *Principles of Federal Appropriations Law*⁷ provide that a “bona fide need” for the fiscal year in which the action is awarded needs to be established. Appropriations law mandates that a fiscal year’s appropriation only be obligated to meet a legitimate (bona fide) need arising in the fiscal year for which the appropriation was made. Actions cannot be awarded just to use available funding. Also, Procurement offices need to ensure all steps required by regulations and policies are followed before awarding an action. These controls are intended to ensure contract awards are in the best interest of the Federal Government and the “bona fide need” rule is not violated.

Recommendations

Recommendation 2: The Director, Procurement, should review each of the 14 actions noted in this audit and ensure all acquisition steps were completed and fully documented in the contract files, especially the 4 actions in which procurement regulations may have been violated. A specific comment should be made in the procurement file explaining the acceptance or nonacceptance of the possible procurement regulation violations identified by this audit.

⁷ *Principles of Federal Appropriations Law*, Third Edition, published by the Government Accountability Office.



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Management's Response: The IRS agreed with the recommendation. Procurement completed a review of each of the 14 actions and will place a Memo for the Record in each contract file acknowledging acceptance of the violation for 13 of the actions. For the remaining action, which totaled \$51,120, Procurement's review showed the services being acquired were nonseverable. Therefore, the funds were obligated in the appropriate fiscal year. In addition, where applicable, Procurement plans to complete previously overlooked acquisition steps.

Office of Audit Comment: We accept Procurement's review results as positive action taken in response to our recommendation. As a result, we reduced our reported outcome measure in Appendix IV from \$196,000 to \$144,880.

Recommendation 3: The Director, Procurement, should reinforce with Procurement personnel the importance of completing all acquisition steps and issue guidance to the business units regarding the concept of "bona fide need" and the requirements governing the use of appropriate fiscal year funding.

Management's Response: The IRS agreed with the recommendation. The Director, Procurement, plans to issue an email reminder to all Procurement personnel advising them of the importance of adhering to procurement regulations and policies at all times. In addition, Procurement plans to develop a bona fide need discussion paper and make it available on the Procurement Policy Framework Intranet web site. Further, Procurement plans to discuss the bona fide need topic at the annual Acquisition Planning Conference.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS is efficiently managing its fiscal yearend spending. To accomplish this objective, we:

- I. Conducted a preliminary analysis of a small sample of procurement actions to identify indicators of inefficient fiscal yearend spending.
 - A. Reviewed the Federal Acquisition Regulation,¹ the Department of the Treasury Acquisition Regulation, and IRS policy and procedure memoranda and developed a checklist to identify all the steps that need to be completed before a procurement action² is awarded.
 - B. Identified a sample selection universe of 3,664 procurement actions awarded during August and September 2006 from a list provided by the Office of Procurement (Procurement). To conduct our preliminary analysis, we judgmentally selected 10 of these actions and verified, through a review of the contract files, whether all the steps required before award of the procurement actions were completed. We used a judgmental sample because we did not plan to project our results to the universe.
 - C. Concluded that sufficient indicators of fiscal yearend spending problems were identified and continued our review.
- II. Determined whether Procurement followed all acquisition regulations when awarding procurement actions at fiscal yearend.
 - A. Documented the process for awarding procurement actions and any concerns regarding fiscal yearend spending through interviews with Procurement personnel.
 - B. Selected samples of 92 of the 3,664 procurement actions awarded during August and September 2006. We judgmentally selected 72 of the 92 actions and randomly selected the other 20 actions. The judgmental sample was based on the dollar value of the action and the date the action was awarded. We used a judgmental sample because we did not plan to project our results to the universe. We used a random sample, in part, to reduce our risk of a bias from the judgmental sample.
 - C. Verified through a review of the contract files whether all steps required before award of the procurement actions included in our sample were completed.

¹ 48 C.F.R. ch. 1 (2005).

² A procurement action can be a contract, contract modification, delivery/task order, etc.



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- D. Interviewed Procurement personnel for all the procurement actions identified as not having all the required steps completed before the award. We requested in writing an explanation of the condition.
- III. Determined whether the requesting office accurately, completely, and timely identified the need for goods and services being procured at fiscal yearend.
- A. Obtained a report from the IRS Request Tracking System³ that summarized commitments and obligations made monthly for FYs 2002 through 2006 and analyzed the commitment rates and the levels of spending.
 - B. Identified any concerns regarding commitment rates and levels of spending through interviews with Procurement, the Chief Financial Officer, and business unit personnel.
 - C. Reviewed contract files and requesting office documentation for the procurement actions in our sample and noted the sufficiency of the reason for the action, the need for the goods/services, and the timeliness of the request.
 - D. Interviewed requesting personnel for all procurement actions identified as not being accurate, complete, or timely and, when appropriate, requested in writing an explanation of the condition.

³ The Request Tracking System is a web-based application that allows IRS personnel to prepare, approve, fund, and track requests for the delivery of goods and services.



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Appendix II

Major Contributors to This Report

Nancy A. Nakamura, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
John R. Wright, Director
Thomas Brunetto, Audit Manager
Debra Kisler, Lead Auditor
Theresa Haley, Senior Auditor
Seth Siegel, Senior Auditor
Niurka Thomas, Auditor



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Appendix III

Report Distribution List

Acting Commissioner C
Office of the Commissioner – Attn: Acting Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Chief Financial Officer OS:CFO
Chief Information Officer OS:CIO
Director, Procurement OS:A:P
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
 Chief, Agency-Wide Shared Services OS:A:F
 Director, Procurement OS:A:P
 Director, Stakeholder Management OS:CIO:SM



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Appendix IV

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Cost Savings, Funds Put to Better Use – Potential; \$144,880 (see page 8).

Methodology Used to Measure the Reported Benefit:

In our draft report, we reported \$196,000 in potential cost savings related to 4 procurement actions that used FY 2006 funds for work we believed was not going to start until FY 2007. Two of these actions were each awarded for approximately \$5,000 more than the quote that was provided by the vendor. The additional funds were added to the procurement action for revisions that may be necessary, even though these actions were awarded as firm-fixed-price¹ purchase orders. If modifications became necessary in FY 2007, the need should have been funded with FY 2007 funds. In addition, 2 actions totaling approximately \$186,000 were awarded but appeared to use FY 2006 funds for work starting in FY 2007. These actions did not establish a “bona fide need” in FY 2006 and should have been awarded in FY 2007.

In response to our draft report, the Office of Procurement (Procurement) completed a review of each of the 14 actions identified in the audit and will place a Memo for the Record in each contract file acknowledging acceptance of the violation for 13 of the actions. For the remaining action, which totaled \$51,120, Procurement’s review showed the services being acquired were nonseverable. Therefore, the funds were obligated in the appropriate fiscal year and, accordingly, we reduced our outcome measure to \$144,880 (\$196,000 less \$51,120).

¹ A firm-fixed-price contract is a type of contract providing for a price that is not subject to any adjustment on the basis of the contractor’s cost experience in performing the contract.



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Appendix V

Management's Response to the Draft Report



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

RECEIVED
AUG 30 2007

AUG 30 2007

MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT
FROM: *David A. Grant*
David A. Grant
Director, Procurement
SUBJECT: Draft Audit Report – The Growing Number of Requests for
Procurement Actions at Yearend Increases the Risk of Inefficient
and Ineffective Spending (Audit No. 200710004)

We appreciate the opportunity to respond to the subject draft audit report. The audit assesses whether the Internal Revenue Service (IRS) is efficiently managing its fiscal yearend spending.

The audit focused on a trend of increased spending at fiscal yearend on procurement actions and a judgmental sample of 92 procurement actions awarded in August and September 2006. Based on the audit samplings, the audit team identified a potential cost savings of \$196,000 in procurement actions with questionable bona fide need.

We agree with your overall assessment that a correlation exists between increased spending at the end of the fiscal year and the likelihood of occurrence of inefficient and ineffective procurement actions. However, of the four procurement actions identified as deficient, we believe the one procurement action for \$51,120 was fully justified as a bona fide need in FY 2006 and was appropriately awarded in that fiscal year. We believe the potential cost savings of \$196,000 should be reduced by \$51,120 to \$154,880.

The attachment to this memo describes our planned actions to implement your suggestions.

We appreciate your continued support and the valuable assistance and guidance that your team provides. If you have any questions, please call me at (202) 283-1200 or Fred Martin, Deputy Director, Procurement, at (202) 283-1200.

Attachment

cc: Chief, Agency Wide Shared Services OS:A
Management Controls Coordinator OS:A:F



*The Growing Number of Requests for Procurement
Actions at Yearend Increases the Risk of Inefficient
and Ineffective Spending*

Attachment

RECOMMENDATION #1: The Deputy Commissioner for Operations Support, with the support, assistance and input from the Deputy Commissioner for Services and Enforcement, should ensure business unit fiscal yearend procurement budgetary decisions and planning are performed in a manner that results in the early involvement of Procurement in the acquisition process, so Procurement can better manage its workload at fiscal yearend.

CORRECTIVE ACTION:

A joint memo signed by the Deputy Commissioner for Operations Support and the Deputy Commissioner for Services and Enforcement will be attached as a cover memo to Information Request and Transmittal (IRT) 07-01 (REV 1), Advanced Acquisition Planning. This cover memo will emphasize the importance of teaming with Procurement at the earliest stages of the acquisition life cycle to develop an acquisition plan with achievable milestones which allow for a well-planned and executed procurement. This cover memo and IRT will be distributed throughout each business unit to the Deputy Finance Officers, Financial Plan Managers and Program Managers.

To encourage level spending throughout the fiscal year, the Chief, Agency-Wide Shared Services and the Chief Financial Officer (CFO) will continue to issue an annual joint memo reminding business units of the importance of spend plan management. This jointly signed memo will also provide the date by which all spending commitments must be submitted to Procurement for the respective fiscal year. To provide the Deputy Commissioners with insight into business unit discretionary budget execution, Procurement will prepare and provide to both Deputy Commissioners a monthly report detailing comparative percentages of funds committed and obligated by each business unit to date.

The Office of Procurement will release Procurement 101, a basic guide to Procurement for Procurement customers. This on-line guidance will provide the roles and responsibilities of the business partner and help the business partner understand the role of Procurement.

IMPLEMENTATION DATE:

December 31, 2007

RESPONSIBLE OFFICIAL:

Director, Procurement, OS:A:P

CORRECTIVE ACTION MONITORING PLAN:

Monitor the Monthly Commitment Tracking Report and the Budget Execution Activity Report generated by the Associate CFO for Corporate Performance Budgeting to ensure Procurement's early involvement with the acquisition process. These reports provide comparative percentages of funds committed and obligated by each business unit to date.



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Management Response to Draft Audit Report – The Growing Number of Requests for Procurement Actions at Yearend Increases the Risk of Inefficient and Ineffective Spending (Audit # 200710004)

RECOMMENDATION #2: The Director, Procurement, should review each of the 14 actions and ensure all acquisition steps were completed and fully documented in the contract files, especially the 4 actions in which procurement regulations may have been violated. A specific comment should be made in the procurement file explaining the acceptance or non-acceptance of the possible procurement regulation violations identified by this audit.

CORRECTIVE ACTION:

A review of each of the 14 actions has been completed and a Memo for the Record (MFR) will be placed in each file, with one exception, acknowledging acceptance of the violation, and where applicable, acquisition steps previously overlooked will be completed.

The one exception is TIRNO-99-Z-00002, Order 642. Our review and analysis of this order determined that the services being acquired were non-severable. This order purchased additional Capacity Backup (CBU) for two systems associated with Disaster Recovery (DR) located at IRS ECC-MEM. A Corporate Account Data Engine (CADE) systems test was scheduled for October 2006 on the DR equipment and it was determined that the DR systems capacity was at 2064-1C7 and 2064-1C9, which was not sufficient enough to handle the new CADE releases/upgrade.

Delivery Order number 0642 activated the Central Processing Unit hardware that was built into the machine, but was not currently active. The feature codes purchased turned on the additional hardware that brought the system up to 2064-114 capacity, which would handle the new CADE releases. If the hardware had not been activated, the October 2006 DR test would have failed. The delivery order had to be issued in September in order to provide sufficient lead time to ensure system readiness by the early-October test date.

The bona fide need arose in the fiscal year in which these funds were appropriated. These services are not severable and FAR 32.703-3, **Contracts crossing fiscal years**, allows non-severable service contracts to cross fiscal years. No further follow-up of this file is required.

IMPLEMENTATION DATE:

January 31, 2008

RESPONSIBLE OFFICIAL:

Director, Procurement OS:A:P

CORRECTIVE ACTION MONITORING PLAN:

The 13 files will be reviewed by the Office of Procurement Policy to ensure that an MFR has been placed in each file.



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Management Response to Draft Audit Report – The Growing Number of Requests for Procurement Actions at Yearend Increases the Risk of Inefficient and Ineffective Spending (Audit # 200710004)

RECOMMENDATION #3: The Director, Procurement should reinforce with Procurement personnel the importance of the completion of all acquisition steps and issue guidance to the business units regarding the concept of "bona fide need" and the requirements governing the use of appropriate fiscal year funding.

CORRECTIVE ACTION:

The Director, Procurement will issue an e-mail reminder to all Procurement personnel advising them of the importance of adhering to procurement regulations and policies at all times, including heavy workload periods at the end of each fiscal year.

The Office of Procurement Policy will develop a bona fide need discussion paper which will be placed on the Procurement Policy Framework intranet site. An e-mail will be sent to all Procurement personnel announcing the addition to this site. Additionally, this topic will be addressed at our annual Acquisition Planning Conference. Historically, this conference is attended by over 300 business unit employees.

IMPLEMENTATION DATE:

June 1, 2008

RESPONSIBLE OFFICIAL:

Director, Procurement OS:A:P

CORRECTIVE ACTION MONITORING PLAN:

Timely completion of the activities outlined above will be monitored to ensure adherence to procurement regulations and policies.