

FCA Contracting Activity

02-03

August 27, 2002

The Honorable Michael M. Reyna
Chairman of the Board and
Chief Executive Officer
Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22102-5090

Dear Mr. Reyna:

The Office of the Inspector General (OIG) completed an audit of the contracting activity at the Farm Credit Administration (FCA). The objective of this audit was to determine if the FCA's contracting environment and the process being used provides adequate controls and safeguards to prevent fraud, waste, and abuse. The audit also followed-up on a management letter on procurement.

We found that many of the procurement actions processed resulted in cost efficient purchases of products and services. However, we found problems with 41 percent of the procurement actions we reviewed. Many of the problems identified are attributed to procurement staff's inattention to contract management responsibilities. Specifically inadequate acquisition planning, unauthorized commitments and lax procurement oversight have made the Agency vulnerable to waste and abuse.

We conducted the audit in accordance with *Government Auditing Standards* issued by the Comptroller General for audits of Federal organizations, program, activities, and functions. We conducted fieldwork from February 11, 2002 through July 5, 2002. We provided a draft report to management on July 18, 2002. We conducted an exit conference and discussed the draft report with the Chief Administrative Officer and the Audit Follow up Official on July 24, 2002. Where actions were presented to the OIG that would resolve audit findings, the recommendations were changed to agreed upon actions.

If you have any questions about this audit, I would be pleased to meet with you at your convenience.

Respectfully,

Stephen G. Smith
Inspector General

TABLE OF CONTENTS

BACKGROUND	1
Office of Chief Administrative Officer	1
OBJECTIVES AND SCOPE	1
FINDINGS AND RECOMMENDATIONS	1
ACQUISITION PLANNING NEEDS IMPROVEMENT	2
Promote Competition	2
Validate Needs and Requirements	3
Obtain Best Value	3
<i>Agreed Upon Actions</i>	4
<i>Recommendation</i>	4
UNAUTHORIZED COMMITMENTS	4
Prohibited Services	4
Exceeding Contract Authority	6
<i>Agreed Upon Action</i>	6
<i>Recommendation</i>	6
CONTRACT ADMINISTRATION	6
Contract File Maintenance	6
Security Risk	7
Tracking Contractor Cost	8
Outdated Policies and Procedures	8
Staffing Procurement Office	8
<i>Agreed Upon Actions</i>	9
FOLLOW UP ON PROCUREMENT MANAGEMENT LETTER	10

BACKGROUND

The Farm Credit Administration (FCA or Agency) is an independent Federal financial regulatory agency. FCA has regulatory, examination and supervisory responsibilities for the Farm Credit System banks, associations, and related institutions. FCA employs fewer than 300 people.

Office of Chief Administrative Officer

The Office of Chief Administrative Officer (OCAO) provides administrative services to the Agency. One of OCAO's goals includes facilitating the timely buying of goods and services for the Agency. OCAO buys goods and services by contract, purchase order or credit card. OCAO makes purchases under the guidelines set forth in the Federal Acquisition Regulation (FAR). The FAR contains uniform policies and procedures applicable to Federal agencies in buying goods and services.

Contracting duties and responsibilities include:

- development, negotiation and award of contracts,
- contract oversight, administration and disposition,
- coordination of contract bid protest, appeals and procedural issues,
- requisition, direction and administrative oversight for Agency supplies, equipment and service purchases, and
- procurement record filing and file maintenance.

OBJECTIVES AND SCOPE

The objectives of this audit were to determine if the FCA's contracting environment and processes being used provide adequate controls and safeguards to prevent fraud, waste and abuse. Also to follow-up on a procurement management letter issued July 24, 2001. For the period October 2000 to April 2002, we reviewed all six open contracts valued at approximately \$1.5 million. In addition, we selected a judgmental sample of 33 purchase orders valued at approximately \$900,000. We also reviewed the Agency's procurement policies and interviewed procurement personnel. We conducted the audit in accordance with *Government Auditing Standards* issued by the Comptroller General for audits of Federal organizations, program, activities, and functions.

FINDINGS AND RECOMMENDATIONS

Many of the procurement actions processed resulted in cost efficient purchases of products and services. However, we found problems with 41 percent of the procurement actions we reviewed. The following table outlines the number of procurement actions reviewed and the number with problems.

Procurement Type	Number Reviewed	Number with Problems	Percentage
Contract	6	2	33%
Purchase Order	33	14	42%
TOTAL	39	16	41%

Many of the problems identified are attributed to procurement staff's inattention to contract management responsibilities. Specifically, inadequate acquisition planning, unauthorized commitments and lax procurement oversight have made the Agency vulnerable to waste and abuse.

Acquisition Planning Needs Improvement

The procurement office is the Agency's advocate for seeking ways to emphasize cost consciousness and obtaining the best value. Therefore, management should rely on procurement staff expertise when making contracting decisions. Procurement staff should incorporate best practices that maximize contract dollars spent. Our review showed acquisition-planning improvements are needed to promote competition, validate needs, and ensure best value.

Promote Competition

The FAR Section 5 states contracting officers must advertise contract actions expected to exceed \$25,000. Further, the FAR Section 6 states the contracting officer is responsible for promoting competition in the acquisition process. Competition helps ensure the Agency gets the best value for goods and services it buys. Our review showed that a requestor's continuous amendments to increase a purchase order price resulted in FAR requirements being abused and a purchase order currently valued at \$265,000 never being competed to ensure best value.

On April 11, 2001, Office of Chief Financial Officer (OCFO) submitted a requisition for financial system support services. OCFO suggested a software company perform the services at an estimated cost of \$24,500. Because the cost estimate was below \$25,000, competition was not required. Two months after award there was an amendment to increase the purchase order price to \$40,500. According to the amendment justification, the price increase was due to OCFO inability to hire staff to support the financial system. Further from July 13, 2001 to March 15, 2002, the purchase order was amended four more times increasing the amount to a cumulative total of \$265,000.

Procurement staff repeatedly discussed with top-level management their concerns about OCFO submitting amendments to increase the purchase order price without adequate justification. Despite procurement staff's concerns, management decided to approve the amendments. By allowing this type of action, management is giving the Agency staff the impression such practices are acceptable to circumvent FAR requirements. The procurement office is the Agency's contracting expert. Therefore, management should support the procurement office's contract action decisions. Before processing any more amendments to increase contract price, the procurement office should reevaluate the acquisition strategy to compete the contract.

Validate Needs and Requirements

Procurement staff needs to be more attentive to ensure funds are not expended on unnecessary goods and services. In FY 2002 the Agency renewed the car leases on a Ford Taurus Wagon, a Ford Windstar and a Ford Grand Marquis. Before lease renewal the Office of Examination completed a cost-benefit analysis to determine whether the Ford Taurus Wagon car lease was still needed. The analysis showed that the Ford Taurus Wagon car lease was more cost efficient than other transportation methods. According to procurement staff, the Ford Windstar car lease was renewed because various Agency staff use the car for group travel. The Ford Grand Marquis lease renewal was based on OCAO having approval to hire an Agency driver, who would use the car to transport Board members and senior staff. However, in December 2001, after the car lease had been renewed for a year, OCAO was informed that it could not hire a driver.

We reviewed the FY 2001 car use reports to determine whether the cars were adequately used.

Car Type	Number of Trips	Mileage	Monthly Lease	Annual cost per mile
Ford Grand Marquis	23 trips	710 miles	\$455	\$7.69
Ford Windstar	34 trips	1,500 miles	\$434	\$3.47
Ford Taurus Wagon	15 trips	8,404 miles	\$389	\$.56

The chart shows, in FY 2001, the Ford Grand Marquis was used significantly less than the other cars. To preclude funds being wasted, efforts to improve accountability in contracting must include continuous assessments, ensuring only essential services and products are procured. In December 2001, procurement staff was aware the Ford Grand Marquis did not have a driver. Knowing that the justification for renewing the lease was the hiring of a driver, procurement staff should have assessed whether the car lease needed to be terminated. In FY 2002, \$4,095 could be put to better use if the car lease was terminated.

Obtain Best Value

Procurement staff needs to improve procurement practices to ensure the Agency receives the best value for goods and services. The Agency uses the Federal Supply Schedule to purchase goods and services. The General Service Administration (GSA) directs and manages the Federal Supply Schedule, also called the Multiple Award Schedule. The program allows Federal agencies to place orders directly with the vendors. According to FAR Section 8.404, to ensure best value before placing orders that exceed the micro-purchase threshold of \$2,500, the procurement office should use the GSA Advantage on-line shopping service or review the catalogs or price lists of at least three schedule contractors.

The Small Purchase Desk Manual (Manual) does not address the Federal Supply Schedule orders. However, the Manual does state that pursuant to FAR Section 13.106-1 (c), request for quotations should be solicited for purchase actions that are not expected to exceed \$25,000. Currently, the Agency's procurement staff places orders over \$2,500 directly with a vendor without reviewing other vendors' price lists. For example, our review showed that 44 percent of the purchases placed using the Federal Supply Schedule did not include other vendors' price lists reviews. According to procurement staff, because Federal Supply Schedule prices are considered

fair and reasonable no further reviews are required. GSA does state that prices on the Federal Supply Schedule are considered fair and reasonable. However, GSA also states procurement staff should also ensure best value by reviewing other vendors' price lists. A best value review considers items besides price such as: special features; warranty information; past performance; environmental and energy efficiency; and trade-in considerations. By reviewing the GSA Advantage on-line shopping service or other vendors' price list, procurement staff would be applying best practices and promoting competition.

Agreed Upon Actions

- 1) ***OCAO should stop processing further amendments on the financial system support contract until a review is completed to determine whether the contract should be competed. If the contract cannot be competed, the review should include a detailed justification identifying the reason(s) for non-competitive procedures.***
- 2) ***OCAO should require the requestors to provide cost comparisons analysis prior to car lease renewal. The analysis should be maintained in the procurement files and at a minimum include the following:***
 - a. ***current and future car use.***
 - b. ***lease cost versus other transportation method cost.***
- 3) ***The CAO should ensure procurement staff is reviewing at least three vendors' price list or use GSA Advantage on-line shopping service for acquisitions exceeding \$2,500 when using the Federal Supply Schedule. This should include the following:***
 - a. ***documentation in the procurement files showing other vendors' price lists were reviewed or GSA Advantage on-line shopping service was reviewed.***
 - b. ***incorporating the requirement to review other vendors' price lists or GSA Advantage on-line shopping service in the Small Purchase Desk Manual.***

Recommendation

- 4) ***OCAO should discontinue the Ford Grand Marquis lease.***

Unauthorized Commitments

By policy, the Agency operates under the FAR regulations and provisions. FCA policy states it will follow the provision of the FAR unless doing so would impair the Agency's authority. Therefore, FAR guidance should be followed when authorizing a contractor's services and purchases. Our review showed a contractor was performing personal services that are prohibited according to the FAR. In addition, a purchasing agent was authorizing purchases that exceeded his delegated authority.

Prohibited Services

According to FAR Section 37.103, a contracting officer is responsible for ensuring that a proposed contract for services is proper. FAR Section 37.104 states personal service contracts are prohibited and an Agency shall not award personal service contracts unless specifically authorized by statutory authority. On the financial system support purchase order, we found the contractor

performing work that is considered personal services according to the FAR. The following chart compares FAR guidance on personal services with the contractor's performance.

FAR GUIDANCE Section 37.104	CONTRACTOR'S WORK
Services are applied directly to the integral effort of the organization.	Contractor responsible for daily operation support such as technical review of nightly cycle. Provides daily reports identifying problems with daily or nightly cycle.
Civilian personnel at similar agencies perform comparable service.	<p>FCA staff, before Federal Financial System implementation, performed this function.</p> <p>Inspector General Audit Report 01-05 "Office of Chief Financial Officer¹", stated the following:</p> <ul style="list-style-type: none"> • Commodity Future Trade Commission employees do similar work. • FCA employees can perform the services.
The need for services expected to last longer than a year.	Contractor performance is currently 17 months (April 2001 to September 2002). The CFO stated he continues to need contractor services indefinitely.
Performance on site.	Contractor assigned an office and has a garage key card.
Principal equipment furnished by Government.	Contractor is given a laptop to use.

The chart shows that the services performed by the contractor are personal services and prohibited according to the FAR. According to the Contracting Desk Manual, if a determination is made that it is in the Agency's best interest for a procurement action to proceed outside the FAR, a "Determination and Finding" is submitted to the Chairman of the Board, in the capacity of the Chief Executive Officer, for approval of a waiver. Therefore, on the financial system support contract, a Determination and Finding should be submitted to the Chief Executive Officer asking for a waiver to allow a personal service contract. If the waiver is not approved, the contract should be terminated immediately.

¹ In the report, "Office of Chief Financial Officer", issued January 24, 2002 by the Office of Inspector General, a recommendation was made to terminate this purchase order.

Exceeding Contract Authority

A purchasing agent authorized purchases that exceeded his delegated contract authority limit. FAR Section 1.601, states contracting officers may bind the Government only to the extent of the authority delegated to them. According to FAR Section 1.603, an unauthorized commitment is an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government. Contracting officers receive clear instructions in writing regarding the limits of their authority from the appointing authority.

The CAO is designated as the FCA contracting officer. The CAO can delegate contract authority wholly or in part, to officials or FCA employees who have the necessary qualifications to exercise the authority properly. The CAO has delegated contract authority to a contract specialist up to \$25,000 and two purchasing agents up to \$10,000. During our contract files review, we noted on four occasions a purchasing agent made unauthorized commitments when he signed purchase orders that exceeded his delegated authority limit. This occurred because the purchasing agent was a back up and inexperienced in contracting procedures. As a result, he was confused about the meaning of his delegated contracting limit. For example, if a taxicab service contract “not to exceed” amount is \$16,000, the purchasing agent felt he could sign the contract if the actual cost did not exceed \$10,000. However, by signing the contract, the purchasing agent has authorized purchases up to \$16,000, exceeding his delegated authority limit. Further, there is no guarantee that costs will be less than \$10,000. The procurement office should ensure that those authorized to sign contracts are knowledgeable in FAR requirements and the meaning of their delegation. By authorizing purchases that exceed contract authority the Agency is at risk of contractors not honoring procurement requirements.

Agreed Upon Action

- 5) *The CAO should ensure procurement staff receives training on personal service contracts and delegated authority responsibilities.*

Recommendation

- 6) *The CAO should obtain Chief Executive Officer approval for an exception to the FAR requirement on the OCFO personal service contract. If approval is not received, the contract should be terminated immediately.*

Contract Administration

Lax procurement oversight has resulted in weak contract practices. Specifically, contract files are not properly maintained, there is contractor security risk, procurement staff is not tracking contractor cost and contract procedures are outdated. In addition, an assessment should be completed to determine whether procurement staff is adequately utilized.

Contract File Maintenance

According to FAR Section 4.801, documentation in files shall be sufficient to constitute a complete transaction history. This includes providing a complete background as a basis for informed decisions at each step in the acquisition process. In addition, FAR Section 4.805 states that agencies shall prescribe procedures for the handling, storing and disposing of contract files. Our review found the following file maintenance weaknesses.

- Four purchase orders were submitted to a contractor to provide several performance measure consultation and training sessions. The initial purchase order file documentation stated the cost estimate was verified based on “previous purchases of this type” but there was no reference to another file or cost figure. Subsequent purchase orders referred back to the initial purchase order for price reasonableness justification. The invoices submitted by the contractor varied from \$1,000 to \$2,000 per day. Without supporting documentation, there is no way to determine how much the contractor services should cost. As a result, the Agency is vulnerable and sometimes at the contractor’s mercy to define the cost.
- On January 18, 2002, a legal review was performed on contract proposal 02-FCA-C-01. According to the legal review, the contract file should contain documentation stating the statutory authority permitting other than full and open competition and a determination that the anticipated cost to the FCA will be fair and reasonable. On April 4, 2002, after contract award, we reviewed the contract files and none of the information cited by the legal review was in the files. According to the contract specialist, this information could be documented at any time, even after contract award and work has begun. To determine price reasonableness after a contract is awarded does not constitute good business practices. Procurement staff should be more responsive and take timely actions to ensure contract files contain relevant documentation.
- During our review, the contract specialist could not find contract file 01-FCA-C-02 valued at \$147,508. According to the contract specialist, “someone borrowed the contract file and did not return it but he could not remember whom.” The procurement office should establish procedures to ensure contract files are adequately safeguarded. For example, a sign out sheet could be used to document staff borrowing files.

To ensure procurement staff is adequately maintaining contract files, OCAO management should perform quarterly reviews of procurement files. Reviews could be a checklist. Review documentation should be maintained in the contract files.

Security Risk

On December 20, 2001 the Office of Inspector General (OIG) issued an inspection report, “Personnel Security Program” that stated the most common basis for background investigation would be contractors who had access to sensitive information or unescorted access in an FCA office or building. The report recommended that the personnel security officer and contracting officer establish procedures for determining if contract personnel need background investigations. OCAO agreed with the recommendation and revised its Internal Procedures for Personnel Security to state that the contract specialist is responsible for notifying the personnel security officer when a procurement action contains elements or conditions that may require a background investigation before a contractor’s work is performed. Prior to the OIG report issuance, a contract was awarded to a software company to perform financial system support services. During our review of the contract, we found instances that we consider security risks. For example, the contractor has access to financial data and routinely makes changes to financial information. In addition, the contractor has a key card, which gives him unescorted access to the building. The contract performance period ends September 30, 2002. Therefore, completing a background investigation prior to the contract end date is not realistic. However, if the contract performance period is extended beyond September 30, 2002, a background investigation should be completed. In addition, the procurement office should review all existing contracts and ensure there are no

potential security risks on other contracts. Background investigations should be completed when there are potential security risks.

Tracking Contractor Cost

The automated acquisition log is not an effective management tool because some procurement actions are not entered and information that is entered does not provide a comprehensive transaction history. The procurement office uses the automated acquisition log to track the Agency's purchase orders and contracts. According to the FCA Desk Manual for Small Purchases, upon receipt of a requisition, the information on the request shall be entered into the FCA automated acquisition log. All actions shall be done in a timely manner so the log is kept up to date and accurate. Supervisors will check for completeness and accuracy on a quarterly basis.

Overall we found the information contained in the system on purchase orders to be accurate. However, contract information is not entered into the system. In addition, purchase orders entered into the system did not contain payment information. Access to payment information was addressed in a previous report issued by the OIG. According to the audit report, "FCA's Supply and Procurement Functions," issued March 29, 2000, the acquisition log was never fully developed to include payment information. The report recommended the log be fully developed to include payment information or be replaced by another automated system that is compatible with the financial management system. Since report issuance OCFO has implemented a new financial management system. Integrating the acquisition log with the new financial system may not be possible. However, OCAO and OCFO can work together to develop an alternative such as OCFO providing copies of payment information.

Outdated Policies and Procedures

In addition to FAR guidance, the Agency has established the following manuals to assist procurement staff with contract administration.

- Policies and Procedures Manual Section 840, "Role and Responsibility of the Contracting Officer's Technical Representative."
- Directive 3, "Contracting Desk Manual,"
- Directive 4, " Small Purchases Desk Manual".

Information contained in these manuals needs to be updated. For example, we found instances where the manual referred to Agency offices that no longer exist. In addition, the manuals refer to other policies and procedures manuals no longer used. Also, the manuals need to be updated to reflect current FAR guidance.

Staffing Procurement Office

The OIG audit report, "FCA's Supply and Procurement Functions", issued March 29, 2000, addressed procurement staff workload. The report stated that due to the decrease in transactions processed, approximately 429 in FY 1999, the procurement function could be streamlined. According to the report, two full-time employees and three others on a part-time basis were involved in the procurement process. OCAO agreed that the procurement function could be streamlined and stated the office was proceeding with a variety of streamlining activities that included the purchasing specialist working independently and increasing the contract specialist's responsibilities beyond contracting matters.

Since report issuance, the procurement office has streamlined to about 1.5 full-time equivalent employees, with one full-time equivalent reduction occurring in July 2002. The contract specialist administers contracts, oversees the purchase card program, serves as back up for small purchases and assists OCAO with administrative tasks as needed. The purchasing agent processes small purchases, oversees property management, and is the back up for mail, supply and transportation. For FY 2001 and 2002, the following procurement actions were processed:

- In FY 2001 OCAO received 179 purchase requisitions.
- From October 1, 2001 until April 2002 OCAO received 75 purchase requisitions.
- As of April 30 2002, there are six open contracts. Two contracts were awarded in FY 2001 and one contract was awarded in FY 2002. The remaining three contracts were awarded in prior years.

Given these numbers, on average the purchasing office is processing less than one procurement action per business day. In addition, many purchases are recurring services such as subscription renewals, copier maintenance and courier services. Because the purchasing office activity continues to decrease, OCAO should assess the most cost effective way to deliver services to the Agency. For example, using an outside Agency for contract services may be cost effective given the small number of contracts awarded each year. By considering this type of alternative the procurement function could be streamlined further.

Agreed Upon Actions

- 7) ***OCAO management should complete quarterly reviews of procurement files. Documentation of the reviews should be maintained in the central contract file. The review should include the following:***
 - a. ***acquisition strategy uses best practices such as promoting competition and "need" assessments.***
 - b. ***procurements are processed appropriately.***
 - c. ***files contain adequate supporting documentation on acquisition history and supporting documentation is completed promptly.***
 - d. ***files are properly safeguarded.***
- 8) ***OCFO should provide OCAO with copies of all payment information related to purchase orders, contracts and interagency agreements for inclusion in OCAO 's procurement files.***
- 9) ***OCAO should update Policies and Procedures Manual 840 and OCAO Directives 3 and 4 to reflect current FAR guidance and the Agency's organizational structure.***
- 10) ***The CAO should complete a review to determine whether the procurement staff can be further streamlined. The review should include a cost-benefit analysis on using outside sources to assist with Agency contract services versus in-house personnel.***

Follow up on Procurement Management Letter

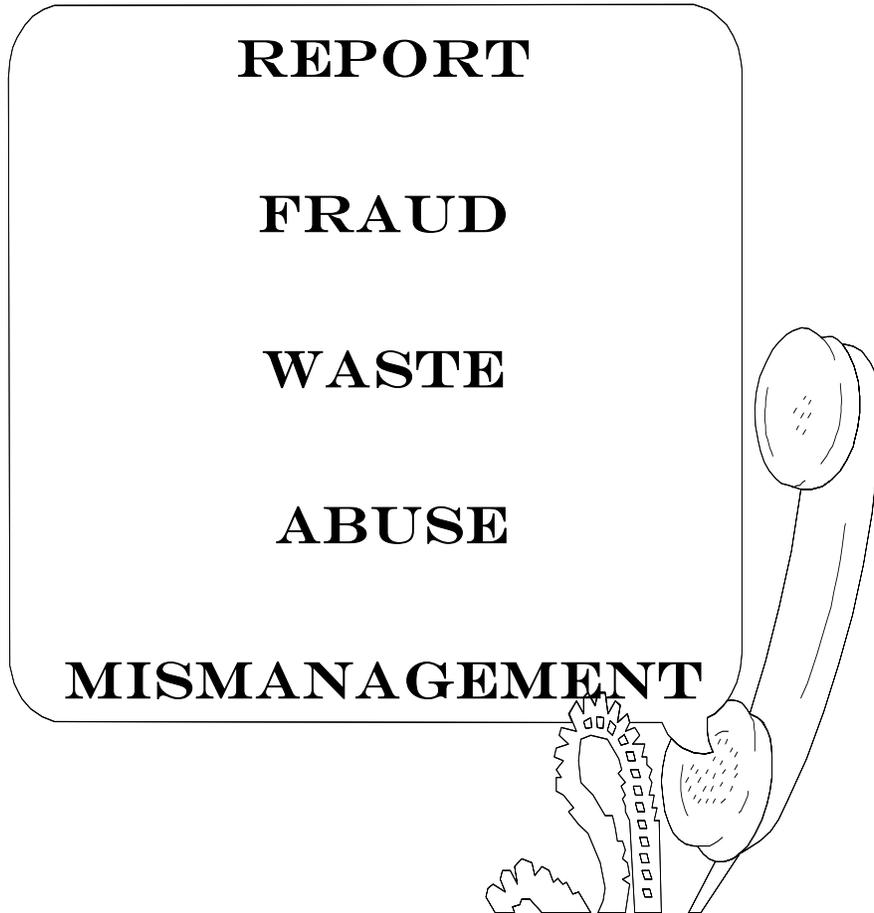
As part of our review we followed up on a procurement management letter issued by the OIG on July 24, 2001. The management letter was the result of procurement issues identified during an investigation. Issues identified in the management letter included the following:

- Documentation requirement at each contracting stage was not always clear.
- FCA staff was confused about which contracting procedures should be used at a particular time during the procurement process.
- There was also confusion on FCA staff roles and responsibilities during the procurement process.

The management letter suggested the following recommendations to improve FCA's procurement process. Establish a contract review process aimed at recognizing contract deficiencies and inappropriate contracting such as piecemeal use of purchase orders. Review procedures related to contracting and procurement. The objective of the review would be to produce a consolidated set of up-to-date procedures.

OCAO responded to the management letter on August 31, 2001. According to OCAO, in their opinion, they had not had the volume or repetition of errors and deficiencies to warrant a contract review process. OCAO further stated that, there was no need to combine contracting procedures because procurement staff consults all written guidance available, both internally and externally, to ensure customers' needs are being met while federal procurement guidelines and requirements are adhered to.

Our review found that the management letter recommendations are still valid. Based on our finding that acquisition strategies were questionable and improvements are needed in contract administration, a contract review process is still needed. In addition, policies and procedures need to be updated to reflect current FAR guidance and FCA organizational structure. Agreed upon actions in this report should resolve the management letter issues. Specific agreed upon actions state that OCAO should perform quarterly reviews on procurement files to ensure procurements are processed appropriately. Reviews will be documented and maintained in the central contract files. OCAO should also update the Policy Procedure Manuals and Directive to reflect current FAR guidance and the Agency's organizational structure.



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