

AUDIT REPORT

Independent Evaluation of NRC's Contract Award Process

OIG-12-A-02 November 7, 2011



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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

**OFFICE OF THE
INSPECTOR GENERAL**

November 7, 2011

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: Stephen D. Dingbaum */RA/*
Assistant Inspector General for Audits

SUBJECT: INDEPENDENT EVALUATION OF NRC'S CONTRACT
AWARD PROCESS (OIG-12-A-02)

Attached is the Office of the Inspector General's (OIG) report titled, *Independent Evaluation of NRC's Contract Award Process*.

The report presents the results of the subject evaluation. Agency comments provided during an October 25, 2011, exit conference have been incorporated, as appropriate, into this report.

Please provide information on actions taken or planned on the recommendations within 30 days of the date of this memorandum. Actions taken or planned are subject to OIG followup as stated in Management Directive 6.1.

We appreciate the cooperation extended to us by members of your staff during the evaluation. If you have any questions or comments about our report, please contact me at 415-5915 or Kathleen Stetson, Team Leader, at 415-8175.

Attachment: As stated



Final Report

Independent Evaluation of NRC's Contract Award Process

26 October 2011

Contract # GS-10F-0052R, Order # D11PD18755

The views, opinions, and findings contained in this report are those of the authors

NRC Contract Award Evaluation—Final Report

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I. Executive Summary

The Nuclear Regulatory Commission (NRC) Office of the Inspector General (OIG) contracted with Censeo Consulting Group (the contractor) to evaluate the NRC's contract award process for regulatory compliance, timeliness, efficiency, and effectiveness. The contractor collected data via documents, interviews, and a survey; made observations; analyzed the results; and developed findings and recommendations. The conclusion of the evaluation was that NRC has a dedicated workforce that ensures regulatory compliance in the award of contracts. However, opportunities were found to streamline the process.

The evaluation considered the major aspects of the contract award process, including regulatory compliance, training of those who use or facilitate the contract award process, market research, sole-source awards, justifications for other than full and open competition (JOFOC), policies and procedures, and internal controls.

The results of the evaluation were based on 20 interviews and over 200 responses to a survey of Program Office and Division of Contract personnel. Furthermore, evaluators reviewed 20 sample contract actions and relevant policy documents.

The evaluation identified several positive findings that represent aspects of NRC's process:

- NRC culture is mission-focused and driven to succeed.
- Compliance issues are rare and relatively insignificant.
- Process improvements already underway were supported by the results of this evaluation.
- The Division of Contracts is well organized and maintains extensive records.

However, the analysis also identified opportunities for NRC to streamline its contract award process while maintaining those aspects that are already mastered. Specifically, five findings and observations were identified in the following areas:

- Contract award policies and procedures
- Contract award process roles, responsibilities, and expectations
- Source Evaluation Panel (SEP) documentation
- Timeliness of contract award
- Program office satisfaction

II. Introduction

A. Background

As the NRC continues to carry out its regulatory responsibility to ensure that the nation's 104 commercial nuclear power plants are operated in a safe and secure manner, NRC's contract award process will continue to play an increasingly critical role. NRC obligated ~ \$175M with 1,727 contract actions in 2009 and ~\$211M with 2,705 contract actions in 2010.

B. Objectives

This evaluation was undertaken to assess the compliance of NRC's contract award process and to identify opportunities to improve both the efficiency and the performance of the NRC contracting process, as well as adequacy of internal controls over the process. The evaluation focused on new contract awards during fiscal years 2009 and 2010.

The NRC OIG contracted with Censeo Consulting Group (the contractor) for an independent evaluation of NRC's contract award process.

The key objectives for this evaluation were:

- To assess NRC's compliance with applicable requirements (e.g., Federal Acquisition Regulation (FAR) and NRC Acquisition Regulation (NRCAR) requirements).
- To determine the timeliness of the NRC award process and the adequacy of internal controls.
- To identify any opportunities to improve the efficiency and effectiveness of the contract award process.

This effort included a complete review of the agency's current policies and procedures for contract award, including internal controls over the process and their adequacy.

III. Approach

The evaluation involved three steps: collecting the information that was needed to support the analysis, analyzing the information to understand how NRC was conducting contract actions, and reporting findings on any issues or concerns identified. A collection plan was developed that included interviews, a survey, and document reviews.

Key terms used throughout this document are listed below:

- ***Observation***— *an observation is a single data result from survey results or a discrete idea presented in an interview reinforced by a second data point which reveals a discrete fact or conclusion.*
- ***Finding***— *a synthesis of a number of related high impact observations made through the assessment.*

- **Condition**— a condition is when a specific current state observation has been identified through the interviews, survey results, and/or documentation review.
- **Criteria**— the criteria is "what ought to be observed" and represents the ideal state where NRC should be, based on best practices with regards to the subject being addressed.
- **Cause**— the cause is the high level reason why the condition(s) is taking place.
- **Effect**— the effect is what the condition(s) is leading to in terms of cost, time, quality, and/or relationships standpoint.

IV. Results

Evaluation findings are based on information gathered during 20 interviews involving 45 staff members and survey responses from 204 staff.¹

A. General Findings and Themes

NRC is performing well with regard to the contract award process in the following ways:

- **Culture is mission-focused and driven to succeed**—NRC employees in all offices take pride in their work and, based on our observations, contract award processes generally meet mission requirements.
- **Compliance issues are rare and relatively insignificant** —Opportunities to improve largely center on efficiency and effectiveness, not on fixing compliance issues.
- **Process improvements already underway were supported by the results of this evaluation** —Examples include implementation of the Transforming Assets into Business Solutions recommendations to further “professionalize” the project officer position and move Technical Assistance Project Manager (TAPM) resources back to Division of Contracts.
- **The Division of Contracts is well organized and maintains extensive records** —NRC has a lot of data about its processes and contracts, and documentation was easy to find and review.

While the evaluation did not find any significant compliance issues with regards to the FAR or the NRCAR, process inefficiencies and opportunities to improve the functioning of the overall NRC contract award process were evident. Moreover, the following overarching themes were noted:

¹ A survey covering 17 contracting topics was sent to 435 people; 204 people responded for a 47% response rate. This response rate is approximately twice the industry standard, which contributed to a high level of confidence in the data.

Theme 1: Communication Issues

In general, there are opportunities to improve the communication between the project officers and the Division of Contracts. In particular, there are opportunities to improve the setting of expectations on both sides with regard to information or deliverables being passed from one organization to the other. Lack of clarity or adherence to expectations was found to be a major cause of rework, dissatisfaction, and “organizational friction,” generally speaking, and several of the findings below reflect this common theme.

Theme 2: Process Inefficiencies

In many cases, the effects of the process inefficiencies identified were cyclical in nature: that is, a cause creates a condition, leading to a number of effects that, in turn, exacerbate the cause and the condition. The lack of effective communication between the project officers and the Division of Contracts thus becomes self-propagating, a cycle that needs to be interrupted and reset through clearer setting of expectations, better collaboration between the organizations, and more formal adherence to recognized processes in order to improve the operational efficiency of the processes we observed.

B. Findings

Finding 1—Contract Award Policies and Procedures

Our evaluation identified perceptions among program office staff that contract award policies and procedures are out of date and difficult to access. Many program office staff members are not formally utilizing policies and procedures related to the contract award process, relying instead on anecdotal guidance. As a result, procedures may be implemented inconsistently from person to person, resulting in inconsistent work products and potential confusion among both Division of Contracts and program office staff. In the survey of both Division of Contracts and program office staff, questions about the consistency of the contract award process ranked 58th out of 63 questions in terms of level of positive response, indicating that generally people do not feel the process is executed in a consistent manner.

There are several potential causes for what we observed and some of these causes are circular in nature. For instance, program office staff reported to us that they did not have access to tools and templates that would help them adhere better to the contract award process, and they responded to the survey similarly – results from the two questions asking about availability of such tools were 53rd and 54th out of 63 questions on the survey when ranked in terms of positive response. However, actions taken recently by the Division of Contracts to improve this may not be fully reflected in our finding. The Acquisition Guidebook for Project Officers and Project Managers, which was designed in part to address this issue, was released during the course of our evaluation and contains at least some of the tools and templates that program office staff appear to find desirable. It is likely that not all program office staff are aware of the Acquisition

Guidebook for Project Officers and Project Managers at this time, and Division of Contracts needs to continue its efforts to promote its work in this area. It is also likely that the Acquisition Guidebook for Project Officers and Project Managers will need to be revised and improved over time. Some program office staff who were aware of its existence nonetheless criticized its content; Division of Contracts staff acknowledged room for improvement but pointed out that they were responding to an urgent need and felt it would be better to release something sooner and work to improve it rather than wait until they had something more perfect to offer.

On the other hand, Division of Contracts staff reported their impression that project officer lack of engagement with the contracting process also contributes to this issue. Project officers are, by and large, part of a community of scientists, not acquisition professionals, and many see their role in the contracting process as an ancillary duty. Division of Contracts staff questioned the degree to which project officers avail themselves of existing tools and policies, a question we could not answer definitively through our evaluation.

A third contributing factor that was identified is the widespread perception that Management Directive (MD) 11.1, *NRC Acquisition of Supplies and Services*, is out of date. MD 11.1 is a major directive and central policy associated with the contract award process, and it was observed that people in the program offices who perceived MD 11.1 to be out of date also assumed it to be unhelpful or irrelevant, essentially ignoring it in favor of advice and guidance from colleagues who they thought could provide more current interpretations of such policies and procedures. MD 11.1, however, is not as out-of-date as people perceive, based upon NRC's official policy to update the management directive every five years. (MD 11.1 was last updated in March of 2006 and is currently in the process of undergoing its 2011 revision.) Based on staff perceptions, five years is too long between revision cycles for this document.

Ultimately, Division of Contracts is taking steps to make better tools and templates available to program office staff and to ensure that program office staff knows these tools are available and can use them. There is opportunity for Division of Contracts to continue these efforts, to be more inclusive of program office staff in designing future revisions of the Acquisition Guidebook for Project Officers and Project Managers, and to continue its campaign to communicate these efforts broadly throughout the project officer community. Specific items that Division of Contracts might consider as part of this include:

- Clarifying roles and responsibilities and the boundaries between Division of Contracts and program offices, especially as they relate to the standards of documents that pass between the two entities;
- Continuing the planned update of Management Directive 11.1 and the Acquisition Guidebook for Project Officers and Project Managers

- Agreeing upon a required set of tools and templates that will facilitate compliance and help standardize the way both program offices and Division of Contracts implement procedures, and determining how to develop, distribute, and maintain these tools;
- Identifying appropriate controls to ensure policy/procedure compliance and implement them.

It is also incumbent upon program office management to ensure that the project officers are aware of the appropriate policies, procedures, tools, and templates, and make use of them.

Recommendations:

We recommend that the Executive Director for Operations:

1. Determine what policies and procedures are required for an efficient and effective contract award process, develop or update them, and establish a process to regularly maintain them.
2. Develop a comprehensive communications and information-sharing plan, in concert with NRC internal stakeholders, which facilitates timely and effective sharing of current policy and updates.

Finding 2—Contract Award Process Roles, Responsibilities, and Expectations

While the initial documents that project officers provide to Division of Contracts (JOFOC, sole-source justification, market-research reports) should meet Division of Contracts expectations for regulatory compliance, there is the perception that this is often not the case. Although the Division of Contracts ultimately gets final contract award documents into compliance, initial project officer documents lack sufficient rigor to comply with federal contracting requirements and Division of Contracts expectations. This situation often results in rework, usually accomplished by the Division of Contracts staff who do not feel they should be performing this function. This need to rework the documents delays the process and prevents Division of Contracts personnel from performing other duties, making Division of Contracts staff feel overworked, affecting the quality and timeliness of other Division of Contracts work, and contributing to frustration between Division of Contracts and program office staff.

Interviews with Division of Contracts and program office personnel confirmed that initial documents are typically lacking in rigor and quality but revealed a potential disagreement concerning roles, responsibilities, and expectations. Division of Contracts staff clearly do not feel they should be responsible for remediating the work of the program office staff and expressed the opinion that they may not be articulating their expectations clearly enough. Supporting this, the survey question asking whether “NRC contract award process is well

understood by both Program and Contracting Personnel” was one of the lowest ranked in terms of positive survey result, ranking 55th out of 63 questions.

Specific examples of poor documentation submitted to Division of Contracts are not available, as these items are not part of the official contract file. Only the final versions, which reflect collaboration with Division of Contracts, are included in the files. As noted above, there was no significant difference in opinion between program office and Division of Contracts staff regarding the quality of initial documents submitted by project officers.

Disagreement between the project officers and Division of Contracts regarding roles, and a lack of timely policies, tools, technologies, and training, are the causes for the lack of initial quality.

Recommendations:

We recommend that the Executive Director for Operations:

3. Develop templates and samples and make them available for reference.

Finding 3—Source Evaluation Panel (SEP) Documentation

Despite generally arriving at defensible decisions, SEPs often fail to document their decisions in a manner that meets Division of Contracts and Office of the General Counsel (OGC) expectations of thorough, logical, defensible written communications within the report. When a report fails to meet Division of Contracts/OGC expectations, Division of Contracts and OGC often work with the SEP members to rework the report. This rework makes the process take longer, which delays awards.

NRC SEP members are charged with evaluating competitive NRC contract proposals and NRC requires SEP members to receive special training that leads to certification as a SEP member. In addition, Division of Contracts provides SEP members with refresher training at the onset of a new evaluation. After performing an evaluation, the SEP is required to produce a report to document their evaluations. FAR standards guide the development of these reports. The initial SEP documentation should meet Division of Contracts and OGC expectations with regard to completeness and conformance to federal contracting guidelines. During the interviews, many OGC and Division of Contracts staff observed that despite providing training to SEP members at the outset of each SEP convening, SEP report drafts often fail to meet FAR standards, requiring their intervention in order to improve SEP report quality.

Through the course of the evaluation, some interviewees questioned whether the expectation of SEP report drafts meeting FAR standards is realistic. Division of Contracts and OGC may judge

the quality of SEP output by whether the report can stand the scrutiny associated with protests and other adverse circumstances that require the SEP report to be legally tighter and more thorough than would normally be considered necessary. SEP members are often not conversant with the FAR and may not understand either what the FAR requires or how the report must be written in order to comply with federal contracting standards, and OGC and Division of Contracts expectations.

Recommendation:

We recommend that the Executive Director for Operations:

4. Clearly delineate the roles, responsibilities, and expectations associated with each stakeholder involved in SEP report creation. As part of this, NRC should evaluate whether:
 - OGC and/or Division of Contracts personnel should play a greater role in the review of the SEP documentation for sufficiency, particularly as it pertains to documenting SEP conclusions in a manner that fully complies with FAR.
 - Templates or other tools should be developed that would facilitate better compliance on the part of SEP personnel, particularly as it pertains to fully documenting the logic behind the SEP's decisions and conclusions.

Finding 4 —Timeliness of Contract Award

Although Division of Contracts communicates final award schedules, they are based on Procurement Administrative Lead Times (PALTs) which are outdated and unrealistic due to many factors.

The Division of Contracts develops general guidelines, known as PALTs, regarding the schedule necessary to process different types of contract actions. To facilitate efficient project management, these PALT times should be realistic, achievable, and accurate. Due to the nature of the work, PALT times must be recognized as general guidelines rather than specific schedules. Schedule deviations are expected, but Division of Contracts should manage expectations, communicating changes in schedule as soon as they become known.

During the interviews, program office staff reported that contract award process milestones were often missed. The survey question asking program office staff about schedule compliance ranked 58th out of 63 questions in terms of level of positive response. In interviews, program office staff indicated a perception that Division of Contracts personnel often notify program office staff of schedule deviations at the end of the prescribed 2-week window to provide such notifications. Division of Contracts personnel conversely reported that, on some occasions,

program office staff does not communicate in a timely manner with Division of Contracts about events and circumstances that impact milestone schedules.

In addition to potential opportunities on both sides to communicate more effectively, the sheer volume of contract actions that NRC processes may be another factor preventing NRC from working within published PALT times. The PALTs are incorporated into MD 11.1. NRC's annual number of contract actions has increased substantially over the past five years.

Opportunities may exist for the Division of Contracts and program office staffs to communicate more proactively regarding project schedule issues. Better communication and management of schedule delays, when they do occur, would serve to enhance the working relationship between the project officer and the Division of Contracts. Specific steps to enhance the usability of the PALT include:

- Analyzing any changes that might affect PALT times since the last time they were updated and published. These changes might include changes in the number of Division of Contracts staff, the overall experience level of Division of Contracts staff, and the number of contracting actions of different types shown in recent trends and projected.
- Revising published PALT times in accordance with the above analysis.
- Developing a policy to revise PALT times on a biennial basis. Revisions should be planned to ensure that the published PALTs remain reflective of the factors that impact schedule adherence.
- Developing standards and processes to ensure that acquisition lead times, milestone schedules, and deviations or changes to communicated schedules are tracked and communicated in a timely manner. As part of this, contracting officers and contracting specialists should have basic project management training to ensure a common skill level throughout the Division of Contracts.
- Evaluating other means of communicating milestone schedules and project status, including “dashboard” or other capabilities that would allow program office staff to check the status of contract acquisition efforts proactively and access supporting documentation.

Recommendation:

We recommend that the Executive Director for Operations:

5. Update PALT times (milestone schedules) on a biennial basis to determine if changes need to be made to reflect the changing factors that affect them (i.e., contracting workload, staffing levels).

C. Observation: Program Office Satisfaction

The survey noted a low level of program office staff satisfaction with the Division of Contracts support and a perception on the part of both program office and Division of Contracts staff that employee retention issues have made it difficult for the Division of Contracts to maintain adequate human resources required to address this issue. At the same time, we note that there are already a number of actions being taken to address this and it is not clear yet whether or not these actions will be adequate or whether other actions will need to be taken.

Based on responses to our survey, the impression that Division of Contracts staff has of program office staff satisfaction is actually lower than actual program office staff satisfaction levels with Division of Contracts support. The survey question to the program office staff concerning, “from a process standing I am very satisfied with the contract award process” ranked 59th out of 63 questions in terms of positive response, with 19% of respondents strongly disagreeing with the statement. By comparison, the survey question to the Division of Contracts staff concerning, “The program office personnel are very satisfied with the contract award process” was the lowest ranked question in the survey on this basis, with 28% of respondents strongly disagreeing and 63% either strongly or mildly disagreeing. This indicates that Division of Contracts staff are aware of program office staff dissatisfaction. However, it also represents a warning marker in that if perceptions of satisfaction on both sides do not improve over time, employee morale issues could emerge within the Division of Contracts staff that could serve to exacerbate the existing staff retention issues.

Through interviews it was observed that Division of Contracts began losing staff to other offices about three years ago and, as that accelerated, their ability to replace and retain staff deteriorated. This was due in part to the proliferation of Technical Assistance Project Manager (TAPM) positions within the Program Offices and came at a time when NRC’s overall number of contract actions was increasing; in 2009, NRC processed 1,727 contract actions compared to 2,705 contract actions in 2010.

The Division of Contracts’ staffing ability has stabilized and its staff increased from 43 to 50 during the course of our evaluation. However, the Division of Contracts still perceives this as an issue area, since Division of Contracts staff still leave for other parts of the organization at a high rate. Simultaneously, interviews with program office staff indicated a perception that Division of Contracts is understaffed and that the staff are inexperienced. This perception may be in part due to how new some Division of Contracts staff are to NRC. However, the Division of Contracts maintains that they are expressly looking to hire experienced contracts personnel into the positions they have open.

While the perceptions and satisfaction levels cited were very consistent throughout the interviews and survey results, this is not being issued as a finding – and there are no corresponding recommendations – because of the actions already underway to address this. The level of staff within the Division of Contracts increased measurably while this evaluation was ongoing, and the Transforming Assets into Business Solutions recommendations that are being implemented are also meant in part to address this issue. As a result, it is difficult to recommend additional concrete actions that should be taken to address this observation, and in fact it is not clear that additional actions beyond those that are currently underway would be necessary or constructive. However, NRC would be well-served to continue along the path it is currently on in taking the actions it is taking to address this issue.

D. Consolidated List of Recommendations

We recommend that the Executive Director for Operations:

1. Determine what policies and procedures are required for an efficient and effective contract award process, develop or update them, and establish a process to regularly maintain them.
2. Develop a comprehensive communications and information-sharing plan, in concert with NRC internal stakeholders, which facilitates timely and effective sharing of current policy and updates.
3. Develop templates and samples and make them available for reference.
4. Clearly delineate the roles, responsibilities, and expectations associated with each stakeholder involved in SEP report creation. As part of this, NRC should evaluate whether:
 - OGC and/or Division of Contracts personnel should play a greater role in the review of the SEP documentation for sufficiency, particularly as it pertains to documenting SEP conclusions in a manner that fully complies with FAR.
 - Templates or other tools should be developed that would facilitate better compliance on the part of SEP personnel, particularly as it pertains to fully documenting the logic behind the SEP's decisions and conclusions.
5. Update PALT times (milestone schedules) on a biennial basis to determine if changes need to be made to reflect the changing factors that affect them (i.e., contracting workload, staffing levels).

Appendix A—Table of Acronyms and Abbreviations

Acronym/Initialism	Explanation
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
IG	Inspector General
JOFOC	Justification for Other than Full and Open Competition
NRC	Nuclear Regulatory Commission
MD	Management Directive
NRCAR	NRC Acquisition Regulation
OGC	Office of General Counsel
OIG	Office of the Inspector General
PALT	Procurement Administrative Lead Time
SEP	Source Evaluation Panel
TAPM	Technical Assistance Project Manager