



Library-Wide Acquisition Function

*Ongoing Weaknesses in the
Acquisition Function Require a
Senior Management Solution*

Special Report No. 2011-SP-106
March 2012

REDACTED FOR PUBLIC RELEASE



UNITED STATES GOVERNMENT

LIBRARY OF CONGRESS

Memorandum

Office of the Inspector General

TO: James H. Billington
Librarian of Congress

March 30, 2012

FROM: Karl W. Schornagel
Inspector General

SUBJECT: *Ongoing Acquisition Weaknesses Require a Senior Management Solution*
Special Report No. 2011-SP-106

This transmits our final report on the assessment of the Office of Contracts, performed by Jefferson Consulting Group, LLC (Jefferson), an advisory firm that is recognized for its expertise in the federal acquisitions process. The executive summary begins on page *i*, and provides a summary of Jefferson's major findings. The full text of Jefferson's findings and recommendations is located in Appendix B.

Management's response to our draft report is included in Appendix A, briefly summarized in Jefferson's executive summary located in Appendix B, and addressed in more detail after Jefferson's individual recommendations.

Based on the written comments to the draft report, we consider all of the recommendations resolved. Please provide, within 30 calendar days, an action plan addressing implementation of the recommendations, including an implementation date, in accordance with LCR 2023-9, *Rights and Responsibilities of Library Employees to the Inspector General*, §6.A. This report will be available to the public in redacted form.

We appreciate the cooperation and courtesies extended by the Office of Support Operations and the Office of Contracts and Grants Management during this evaluation.

cc: Chief of Staff
Chief of Support Operations
Chief, Office of Contracts

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▶▶ EXECUTIVE SUMMARY

To maintain public trust and fulfill public policy objectives, an effective acquisition function should provide timely acquisition of the right goods and services while efficiently addressing the customer's needs and obtaining the best value for taxpayer dollars. The success of any public acquisition system is rooted in law and policies with appropriate internal controls, which if adhered to through effective management and oversight, promote transparency, accountability, competition, and ultimately protect resources from fraud, waste, abuse, and mismanagement.

The Library has a well-documented history of acquisition problems, as repeatedly reported by the Office of the Inspector General (OIG) over the last 10 years. Based on our ongoing concerns, we engaged Jefferson Solutions (Jefferson), a consulting firm with expertise in the federal acquisitions process, to perform an evaluation of the current state of the Library's Office of Contracts (OC) as a follow-up to our last report, in 2008. The following summary provides the results of Jefferson's evaluation of the OC's compliance with applicable federal regulations and best practices.

Management of the Acquisition Function—Jefferson identified many deficiencies and weaknesses in OC's management including problems with infrastructure; organizational misalignment and lack of definition of the OC management structure; lack of continuity in executive leadership; absence of a management tool to measure the acquisition function's performance; staff lacking sufficient contracting knowledge and experience; inadequate requirements for reviewing procurements under \$100,000, including an ineffective Contracts Review Board for acquisitions over \$100,000 that fails to prevent or detect deficiencies in the acquisition process; and a lack of supervision and training that likely contribute to an extremely high staff turnover rate and low morale.

Technical Issues—Jefferson identified numerous technical deficiencies at critical steps in the acquisition process, such as the lack of adequate planning; failure to conduct market research; a gross lack of competition (of the 129 randomly selected contracts valued at \$52 million, more than half were awarded noncompetitively); poorly defined requirements;

inadequate (and in some cases missing) government cost estimates needed to analyze the fairness and reasonableness of vendor quotes for goods and services; failure to justify the use of risky labor-hour contracts; overuse of non-personal services contracts, avoiding competition for readily available services; mischaracterization of contract types resulting in the exclusion of clauses that stipulate the government's rights and privileges; pervasive incorrect use and exercise of contract options; and an incorrectly configured contract writing tool for inserting critical clauses into Library contracts.

Customers—Jefferson's evaluation identified several more problems relating to the OC's interactions with customers in the areas of planning, knowledge, responsibilities, and service, involving poor communication and cooperation between OC and its customers (including instances where customers were discouraged from communicating with the OC); customers lacking understanding of their roles and responsibilities related to planning and executing acquisitions; Contracting Officer's Representatives (COR) inadequate training to perform their duties, with no accountability for training and assigning COR responsibility; and a lack of current and useful policies and procedures to guide OC staff and customers.

Despite bringing problems with the acquisition function to management's attention repeatedly over the past 10 years, the OIG assessment of Jefferson's report is that there has been further deterioration in the function and senior Library management's corrective efforts have been unsuccessful. The extent of deficiencies and weaknesses found during this review is troubling considering Library management asserted since our 2008 report that it implemented fixes for the vast majority of the conditions that are still present.

Specifically, this review revealed that the Library does not track any performance metrics related to effective procurement and contract administration of the OC, even though Library management knows about these long-standing problems and is aware that program managers and staff receive poor quality procurement services.

An additional area that stands out in particular is the OC's failure to consistently obtain full and open competition or ascertain whether or not it is receiving the best price. By not taking advantage of opportunities for competition, the Library

is likely paying more for services and supplies and/or limiting access to offerors who may provide superior technical approaches and solutions.

The government has established procurement regulations and best practices for competing acquisitions, comparing costs, and determining price reasonableness for the express purpose of maximizing the taxpayer's purchasing dollar. These guidelines, which focus partly on ensuring fair competition:

- help reassure the public that taxpayer dollars are not wasted,
- promote fairness and openness leading to public trust, and
- prevent waste, fraud, and abuse because contractors know they must perform at a high level or be replaced.

Healthy competition is the lifeblood of commerce: it increases the likelihood of efficiencies and innovations, and reduces waste and inefficiencies. The Library's continued failure to comply with these guidelines, along with ineffective management in the OC and lack of accountability, expose the Library to a high risk of costly inefficiencies and waste of funds.

In addition, with the multitude of issues and a flawed acquisition culture, the Library cannot claim that it is paying fair and reasonable prices for its goods and services, or even that it is not making improper or inappropriate purchases. The Library may very well be paying a high or unreasonable price for the supplies and services it purchases. [REDACTED]

In our view, if the Library is to be accountable for its annual expenditure of \$210 million in taxpayer dollars, executive leadership must fully commit to developing a corrective action plan that specifically and thoroughly addresses the more than 50 recommendations provided in the attached report, and make it a top management priority to aggressively implement the plan.

The full text of Jefferson's findings and recommendations along with management's responses are located in Appendix B. Management concurred with all recommendations except four regarding use of the Library's financial system.

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▶▶ BACKGROUND

The Library of Congress' (Library) mission is to support the Congress in fulfilling its constitutional duties and to further the progress of knowledge and creativity for the benefit of the American people. Beyond the vast shelves and digital resources is a framework of integrated business functions that operates to produce and deliver these important services. The acquisition function is one of the components at the core of that framework.

The Federal Acquisition Regulations' (FAR) statement of guiding principles¹ is "[t]he vision for the Federal Acquisition System is *to deliver on a timely basis the best value product or service to the customer* [emphasis added] while maintaining the public's trust and fulfilling public policy objectives."

To accomplish this, it also states, "[t]he Federal Acquisition System will—

- 1) Satisfy the customer in terms of cost, quality, and timeliness of the delivered product or service by, for example—
 - i) Maximizing the use of commercial products and services;
 - ii) Using contractors who have a track record of successful past performance or who demonstrate a current superior ability to perform; and
 - iii) Promoting competition;
- 2) Minimize administrative operating costs;
- 3) Conduct business with integrity, fairness, and openness; and
- 4) Fulfill public policy objectives."

It is the policy of the Library to follow the FAR in the procurement of goods and services unless a deviation is determined to be in the best interest of the Library.

The Office of the Inspector General's (OIG) role requires a continuing assessment of the risks and vulnerabilities facing the Library. The current fiscal crisis amplifies many of the risks and vulnerabilities emanating from the acquisition

¹ Federal Acquisition Regulation, Sec. 1.102 – *Statement of guiding principles for the Federal Acquisition System.*

function within the Library. Recognizing the critical nature of those ongoing problems and their impact on crucial resources, OIG engaged the services of Jefferson Solutions² (Jefferson) to conduct an independent review of the OC. The results of Jefferson’s evaluation are presented in its report found in Appendix B. Figure 1 presents a table of Jefferson’s findings. The table also indicates that OIG previously conveyed most of these issues to Library management.

Comparison of Current Findings to Previous Assessments					
Jefferson’s Findings ³	Year Identified in Previous OIG Audits and Memoranda				
	2008	2007	2004	2003	2002
Organizational Alignment and Vacancy	X	X	X		X
Lack of Supervisory Structure	X	X	X		X
Need for a Fully Developed Acquisition Infrastructure	X	X	X		X
Key Performance Metrics are Not Being Tracked, e.g., Competition		X			
Lack of Adequate Acquisition Planning	X	X			
Customers Lack an Understanding Regarding their Roles and Responsibilities Related to Planning and Executing their Acquisitions	X				
Independent Government Cost Estimates are Inadequate	X				
Failure to Conduct Market Research	X				X
Additional Efforts to Promote Communication With Customers Are Needed			X		X
Lack of Effective Oversight to Achieve Desired Outcomes	X		X		
Lack of Competition—Excessive Use of Sole Source Procurements			X		X
Price Reasonableness Analysis Insufficient and/or Not Documented	X			X	X
Contract Options Being Used Incorrectly	X				
Failure to Prepare Determination and Findings for Labor-Hour Contracts	X				
Mischaracterization of Labor Hour Contracts as Fixed Price	X				
The Policy and Use of Non-Personal Services from Individual Contractors Under LCR 2111 Should Be Examined	X			X	
Contracting Specialists have Insufficient Skills, Knowledge, and Experience to Proficiently, Efficiently, and Effectively Perform Their Acquisition Responsibilities	X	X	X	X	X
Contract Officer Representatives (CORs) Lack the Requisite Training to Perform Their Responsibilities	X				X
Continuing Challenges with the Momentum Contract Writing System	X	X			
Managing Institutional Knowledge and Sharing Best Practices Is Lacking					
Key: X = Year Finding was identified and reported.					
Figure 1: Comparison of Jefferson’s Findings to Previous OIG Audit and Memoranda Assessments					

² Jefferson Solutions is a division of Jefferson Consulting Group, LLC.

³ Findings are contained in Appendix C *Consolidation of Root Causes* of Jefferson’s Report contained herein. See Jefferson’s Findings and Recommendations section for an expanded discussion of findings.

►► OBJECTIVES, SCOPE, AND METHODOLOGY

This report provides the results of an assessment of the Library's acquisition function. It excludes the contracting function dedicated to the Federal Library and Information Network (FEDLINK).⁴ The objective of the review was to evaluate the extent to which the Library's contracting function conformed to applicable federal regulations, best practices, and guidance.

Jefferson provides state-of-the-art acquisition expertise for federal and state governments with a team of experienced acquisition experts and a practical actionable approach to understanding and building strong procurement policies, business processes, staffing models, and workload drivers. Jefferson has recently provided acquisition consulting services to several federal agencies including the Departments of Commerce, Defense, Energy, and Homeland Security.

Government Auditing Standards require that the professional qualifications of specialists be evaluated to determine whether they possess the necessary skills and knowledge in their field. We reviewed the qualifications of Jefferson's practitioners who worked on this evaluation and determined that they are intimately familiar with federal acquisition rules, regulations, procedures, and practices (Appendix B (E), pg 62).

Jefferson's task was twofold: 1) to evaluate the extent to which internal policies conform to the FAR, other applicable authorities, and best practices, and 2) conduct a review of a sampling of fiscal year (FY) 2011 contracts to evaluate compliance with applicable policies and regulations.

In order to make the most efficient use of the contractor, we limited the scope of Jefferson's review to contracting actions processed in FY 2011 valued at \$25,000 or more. There were a total of 844 procurement actions over \$25,000 in FY 2011. However, for the purpose of their review, Jefferson excluded all

⁴ FEDLINK serves federal libraries and information centers as their purchasing, training, and resource-sharing consortium. FEDLINK provides its members annually with more than \$60 million in transfer pay services, saving federal agencies approximately \$10 million in volume discounts annually from vendors and more than \$8 million each year in cost avoidance.

task orders, inter-agency agreements, procurements on behalf of Open World Leadership Center, and modification and amendment transactions. The remaining 472 actions were statistically sampled for a compliance test of attributes with 129 randomly selected for Jefferson's in-depth review. A complete description of Jefferson's stratified sample is included in the Objectives, Scope, and Methodology section of their report (Appendix B, pg 13).

Our role in this evaluation was to 1) provide Jefferson, through previous OIG reports and discussion, background for policy and operational matters which have historically affected the Library's acquisition function, 2) coordinate the firm's access to the OC's policies, procedures, and official contract files, 3) facilitate communication between Jefferson and Library personnel, and 4) review and obtain an understanding of Jefferson's methodology in order to assess its findings and conclusions.

This report presents in summary form, Jefferson's findings. The full text of Jefferson's report is provided in Appendix B. Jefferson presented its findings from the evaluation of the contract files, interviews, and review of regulations, policies, and guidance in a framework developed by the Government Accountability Office (GAO) in 2005, which was developed to promote "top-down" assessments of strengths and weaknesses of the acquisition function at federal agencies (see *Framework for Assessing the Acquisition Function at Federal Agencies (GAO Framework)*, GAO-05-218g, September 2005).

After employing the GAO methodology, Jefferson summarized their findings into three categories 1) Management of the Acquisition Function, 2) Technical Issues, and 3) Customers (Planning, Knowledge, Responsibilities, and Service). Within those categories, they presented 21 findings and 51 recommendations for rehabilitating the Library's acquisition process. In addition, Jefferson identified 10 root causes that either individually or in combination were factors creating the systemic weaknesses and compliance deficiencies they identified.

▶▶ OIG CONCLUSIONS

Given the longstanding history of deficiencies in the acquisition function, it is critical that Library management successfully remedy the ongoing systemic and compliance-related internal control weaknesses. To obtain the maximum benefit from our evaluation, those charged with agency governance must understand that the issues affecting the acquisition function are agency-wide. Therefore, solutions to the long-term procurement problems Jefferson identified require a holistic approach guided by accountable, senior level authorities that are independent of the everyday management and operations of the Office of Contracts and Grants Management (OCGM) and its OC.

The OC is not positioned to develop and implement all of the necessary improvements. OCGM management and staff should continue focusing on transacting the Library's immediate acquisition requirements, while Library management concentrates on forming a sustainable, long-term solution to the problem.

Currently, the acquisition function begins with the drafting of the Library's Congressional Budget Justification, encompasses all areas of the agency, and transcends several fiscal years. The function involves not only the initiating service unit but also budgetary, financial, legal, human resources, logistical, information technology, and auditing support throughout the agency. Solutions to agency-wide functional deficiencies require a strategic approach involving long-term planning and coordination of multiple resources and areas of responsibility. This strategic approach requires senior management to commit both management and professional staff along with budgetary resources to rehabilitate the acquisition function. To develop a strong and healthy acquisition culture, the cooperation of all service and support units along with OCGM is vital. This also includes active participation on the parts of the Executive Committee (EC), Human Resources Services, the Office of the Chief Financial Officer, and Information Technology Services.

We believe that only the Chief of Staff and the Chief of Support Operations are positioned to effectively accomplish this approach. Also, as a strategic task this effort requires a documented plan of action, milestones, and periodic progress

reports to the EC, and accountability by the officials charged with the responsibility for affecting the required changes. Total improvement in the Library's acquisition function is the only acceptable outcome.

Major Contributors to This Report:

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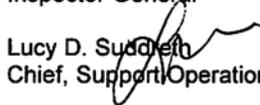
▶▶ APPENDIX A: MANAGEMENT RESPONSE

UNITED STATES GOVERNMENT

Memorandum*Office of the Chief of Support Operations**Library of Congress*

DATE: March 23, 2012

TO: Karl W. Schornagel
Inspector General

FROM: Lucy D. Suddeth 
Chief, Support Operations

SUBJECT: Management Response to Draft Audit Report No. 2011-SP-106

I am pleased to respond to your draft report on the Library-Wide Acquisition Function. I appreciate the value your office has placed on the Library developing a strong and healthy acquisition culture, and the importance of having the cooperation and participation of all service units working with the Office of Contracts Management (OCM). Your report contains many recommendations already incorporated in the FY12 OCM Tactical Plan, and it validates the critical issues upon which OSO is focused.

The Librarian's creation of the Office of Support Operations (OSO) Service Unit, officially established October 1, 2010, was to provide centralized leadership and management of essential support services. With the FY10 loss of permanent staff and the sudden retirement of the OCGM director, priority was given in FY11 to building capacity. OSO moved quickly to implement short and long term solutions to ensure effective support of the Library's programs and mission. Your fieldwork came on the heels of a particularly challenging procurement cycle, staffing instability, and the beginning of OSO's implementation of a corrective action plan.

OSO is focused on building a knowledgeable and certified staff of contracting professionals. Of the 14 individuals newly hired, nine 1102 contracting specialists have an average of 9.6 years of experience, and 89% have Level I, Level II or Level III certification. Five newly hired 1105 procurement specialists have an average of six years of experience and funding is available for them to receive Level I certification training, exceeding position requirements. The selection of two additional GS-14 supervisory contracts specialists will provide an appropriate level of supervision and span of control.

OSO has implemented actions for building a robust acquisition planning culture, and for establishing capacity beyond the Contracts staff. Beginning FY12, the Library has included Acquisition Planning in the *FY 12 Planning and Budgeting Framework*. Critical discussions have begun with senior management on how to

further strengthen the procurement program. The upgraded Federal Acquisition Certification - Contractor's Official Representative (FAC-COR) training has been rolled out. Procurement stakeholders have begun obtaining the critical knowledge necessary to perform their roles and responsibilities.

OSO has embarked on a long-term solution with an objective program assessment that has defined goals, outcomes, strategies and best practices for building an effective procurement office. An assessment of technology requirements is being conducted as well.

Finally, I want to make a point of clarity to the Competition in Contracting Act (CICA) reference contained in your report.

Page 28 of the Jefferson Consulting report that is Attachment B to the IG report discusses the Competition in Contracting Act (CICA) of 1984 (41 U.S.C. § 3301 et seq.) saying that CICA "generally governs competition in federal procurement contracting" and explaining CICA provisions and exceptions in detail. The report gives the impression that the Library has been violating this statute.

The General Counsel's Office has advised that CICA does not apply to the Library. The Library is statutorily required to compete, but not under the framework established by CICA. The statute that applies to the Library is 41 U.S.C. § 6101 (formerly 41 U.S.C. § 5.) It is important that his key point be reflected in your final report.

The attached spreadsheet provides our detailed responses to your recommendations.

cc: Robert Dizard
Robert Williams

Office of Support Operations
Office of Contracts Management
Management Response

Library-Wide Acquisition Function
OIG DRAFT Special Report No. 2011-SP-106
Report Date February 26, 2012

CATEGORY AND FINDINGS	REPORT RECOMMENDATIONS	MGMT DECISION	MANAGEMENT RESPONSE
I. MANAGEMENT OF THE ACQUISITION FUNCTION			
A Need for a Fully Developed Acquisition Infrastructure	I.A.1 Establish a support component to ensure effective and efficient performance of critical functions that support the Office of Contracts. The position should be staffed with a senior, experienced General Schedule (GS)-1102, grade 14.	Agree	The organization, responsibilities and staffing of a component that would support the overall acquisition infrastructure (end OCM specifically) is currently being evaluated.
	I.A.2 Rewrite the COI manual deleting those policies that merely restate the FAR and drafting specific guidance geared toward the Library's acquisition activities. Organize the COI so that it is easily accessible.	Ongoing	OCM has begun to review the COI manual with additional emphasis on appropriate content and accessibility. OCM envisions an acquisitions regulations system that fully documents agency-specific acquisition policies and practices, and standard operating procedures that will guide relationships between the Library, contractors, prospective contractors, and internal procurement stakeholders.
B Organizational Alignment and Vacancy	I.B.1 Fill the Director slot with a permanent, qualified and experienced acquisition professional. This will signal the importance of the acquisition function within the Library and provide much-needed guidance and leadership to the OC.	Agree	The organizational alignment, management and staffing needs of the Office of Contracts and Grants Management is currently being evaluated by OSO. The office is actively engaging its customers to emphasize the importance of the acquisition function and to facilitate timely acquisition planning and execution.
	I.B.2 Examine the need for both a Director and Chief of Contracts position. If retained, both roles and responsibilities should be clearly defined.	Ongoing	The organizational structure, management and staffing needs are currently being evaluated as part of a rigorous assessment of the current and future state of OCM. Roles and responsibilities of all staff in the office will be clearly defined.
C Lack of Supervision	I.C.1 Define and implement an organizational structure for the OC that provides a reasonable supervisory span of control. Specifically, the OC requires two experienced contract specialists, Federal Acquisition Certification in Contracting (FAC-C) Level III contract professionals, GS-1102-14s, to facilitate close supervision and mentoring of contract staff.	Ongoing	OSO determined in fiscal year 2011 that the supervisory structure in place prior to the reorganization was not sufficient. OCM is actively working to hire two additional qualified GS-1102-14 Supervisory Contracting Specialists to establish an appropriate level of supervision, mentoring and oversight.
D Key Performance Metrics are Not Being Tracked	I.D.1 Develop a balanced scorecard approach to measure the effectiveness of the contracting function. Key dashboard metrics should include: (a) Percentage of Competitive Actions and Dollars; (b) Number of Ratifications; (c) Procurement Action Lead Time; (d) percentage of Staff FAC-C Certified; (e) Staff Turnover Rate; (f) Customer Satisfaction Results; and (g) Contract Specialist Use of Momentum.	Complete	OSO developed and implemented an effective strategic performance management tool in November 2011. The OCM biweekly dashboard includes key metrics for measuring the effectiveness of the entire acquisition lifecycle, including acquisition planning, P.A.I. customer satisfaction, staff learning and growth, and management reporting. Other key metrics are tracked off the dashboard.

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MARCH 23, 2012

OFFICE OF SUPPORT OPERATIONS

Office of Support Operations
Office of Contracts Management
Management Response

Library-Wide Acquisition Function
OIG DRAFT Special Report No. 2011-SP-106
Report Date February 28, 2012

CATEGORY AND FINDINGS	REPORT RECOMMENDATIONS	MGMT DECISION	MANAGEMENT RESPONSE
<p>E Contract Specialists Lacking in Knowledge and Experience</p>	<p>I. E. 1 Quickly develop and implement a rigorous training program.</p> <p>I. E. 2 Develop training goals, (i.e., obtain FAC-C level I certification for all staff within 12 to 14 months).</p> <p>I. E. 3 Ensure all staff members have individual development plans.</p> <p>I. E. 4 Develop and implement an orientation/mentoring program for new employees.</p>	<p>Complete</p> <p>Complete</p> <p>Complete</p> <p>Ongoing</p>	<p>OCM developed and implemented a rigorous staff training program. In fiscal year 2011, OCM conducted an assessment of specialized training and certification requirements, developed and funded a specific training curriculum in accordance with OFPP requirements, and other identified training. For example, FAR Immersion training was conducted in February 2012 and IGCE training is scheduled for Q3.</p> <p>Training goals and targeted certification levels for various positions in OCM have been developed and are being achieved. 89% of the 1102-series Contracting Specialists hired since February 2011 are certified at FAC-C Level 1, Level 2 or Level 3, as appropriate to the position and grade. Training goals have also been developed and funded for remaining 1102s to achieve certification within 12-14 months. The 1105-series staff have been funded to achieve Level 1 certification, within 24 months, exceeding the position requirements.</p> <p>OCM implemented a Performance Management Program, including individual Development Plans for the period November 1, 2011 to October 31, 2012. Supervisors are accountable to review staff performance requirements semi-annually and update as appropriate.</p> <p>Beginning October 1, 2011 OCM developed and implemented an orientation program for new and existing Contracts staff to become more knowledgeable about their respective customer program areas, the Library's strategic goals, Momentum, OSO program objectives, and Library decision making. Mentoring opportunities and team building exercises are also being identified.</p> <p>The CRB process will be strengthened as a result of OCMs review and implementation of a rigorous quality assurance program for the pre-award phase.</p> <p>COI 1004 issued by the Chief of Contracts December 12, 2011 significantly enhances and defines the review and oversight responsibilities during the pre-award phase. COI 1003 will be updated to reflect the products produced from COI 1004 and the results of the comprehensive review noted above.</p> <p>The quality assurance program will include an appropriate review of all awards, including those above the micro-purchase threshold.</p>
<p>F CRB Oversight Process Ineffective</p>	<p>I. F. 1 Strengthen the oversight process by putting a more rigorous CRB process in place.</p> <p>I. F. 2 Rewrite COI 1003 to be a more comprehensive Oversight Policy and Contract Review Process.</p>	<p>Agree</p> <p>Agree</p>	<p>The CRB process will be strengthened as a result of OCMs review and implementation of a rigorous quality assurance program for the pre-award phase.</p> <p>COI 1004 issued by the Chief of Contracts December 12, 2011 significantly enhances and defines the review and oversight responsibilities during the pre-award phase. COI 1003 will be updated to reflect the products produced from COI 1004 and the results of the comprehensive review noted above.</p>
<p>G Insufficient Review Mechanism in Place to Ensure Quality Assurance for Actions under \$100,000</p>	<p>I. G. 1 Institute internal controls requiring at least a peer review by a supervisor or a contracting officer with a minimum of a FAC-C Level I certification on all procurement actions over the micro-purchase threshold.</p>	<p>Agree</p>	<p>The quality assurance program will include an appropriate review of all awards, including those above the micro-purchase threshold.</p>

Office of Support Operations
Office of Contracts Management
Management Response

Library-Wide Acquisition Function
OIG DRAFT Special Report No. 2011-SP-106
Report Date February 28, 2012

CATEGORY AND FINDINGS	REPORT RECOMMENDATIONS	MGMT DECISION	MANAGEMENT RESPONSE
II. TECHNICAL ISSUES			
A Lack of Adequate Acquisition Planning	<p>II.A.1 Institute a set of controls to ensure COI 1002, <i>Acquisition Planning Policy</i>, is adhered to.</p>	Agree	COI 1002, <i>Acquisition Planning Policy</i> , will be rewritten to incorporate recent changes to the Library-wide acquisition planning process, such as the interface with the Library's new budget planning and execution tool. Discussions have begun on possible controls to strengthen the acquisitions program.
B Failure to Conduct Market Research	<p>II.B.1 Provide outreach training to those customers needing a better understanding of their acquisition-related duties and responsibilities.</p>	Ongoing	As part of its FY12 initiative to build capability, OCM expanded outreach training and support to its customers. FAR Immersion training was provided to Service Unit staff in February 2012. A course to provide OCM's first ever structured training in market research and independent government cost estimates has been identified for Q3.
C Lack of Competition - Excessive Use of Sole Source Procurements	<p>II.C.1 Conduct intensive training for all in the acquisition chain regarding limits on sole source contracting, developing proper justifications, and emphasizing the benefits of competition.</p>	Ongoing	FAC-COR Level II certification training curriculum rolled out January 2012 included emphasis on the benefits of competition and requirements of the acquisition function. Level I and Level III certification training is open for registration.
	<p>II.C.2 Create a method to track all sole source procurements and develop a plan to target a certain percentage of those procurements for conversion to a competitive track.</p>	Partial Agreement	OCM currently tracks competitive procurements versus sole source procurements as part of its performance metrics. Management does not agree that target percentages for conversion should be established. Instead, working with the Competition Advocate, OCM will partner with service units on those acquisitions that have been traditionally sole sourced to migrate them to competitive to the maximum extent appropriate.
	<p>II.C.3 Develop directives on appropriate use of sole source contracting and FAR synopsis requirements.</p>	Agree	Synopsis requirements are contained in COI 1004.3. These requirements will be reinforced in internal OCM training sessions.
	<p>II.C.4 Implement a set of controls to ensure higher-level approval (i.e., Chief of Contracting) at the acquisition planning stage is obtained for all sole source procurements above the micro-purchase threshold.</p>	Agree	This recommendation will be incorporated in policy being drafted concerning the Competition Advocates roles, responsibilities and process.
	<p>II.C.5 Ensure that performance plans contain performance standards related to obtaining competition and that staff are rated accordingly.</p>	Complete	The performance plans implemented in November 2011 already require accountability to the prescribed regulations that determine whether an action should be competitive.
	<p>II.C.6 Develop a competition advocate program so that opportunities for competition are not missed.</p>	Agree	OCM has already begun discussions with stakeholders on implementing best practices for a competition advocate program.

Office of Support Operations
Office of Contracts Management
Management Response

Library-Wide Acquisition Function
CIG DRAFT Special Report No. 2011-SP-106
Report Date February 28, 2012

CATEGORY AND FINDINGS	REPORT RECOMMENDATIONS	MGMT DECISION	MANAGEMENT RESPONSE
D Independent Government Cost Estimates are Inadequate	II. D. 1 Establish a control process to prevent inadequate IGCEs from being used.	Agree	OCM will implement a two pronged approach to establishing a control process by 1) facilitating customer knowledge of how to prepare an adequate IGCE, and 2) provide validation for sufficiency by a contracting officer during the planning phase.
	II. D. 2 Develop clear guidance and IGCE templates for customers.	Agree	IGCE training will be added to supplement that which is already included in the FAC-COR training.
E Price Reasonableness Analysis Insufficient and/or Not Documented	II. E. 1 Provide training for all in the acquisition chain regarding the preparation of IGCEs and techniques for making fair and reasonableness judgments.	Ongoing	An IGCE course, that is FAR compliant, has been identified and will be added to the COR curriculum. The first class is planned for Q3.
	II. E. 2 Ensure that providing fair and reasonable cost estimates/price analysis is included in performance plans for contracting officers and considered during performance review.	Completed	Proficiency in the solicitation, negotiation and award process is included in the November 2011 annual performance program requirements.
F Failure to Prepare Determination and Findings for Labor Hour Contracts	II. F. 1 Provide training on proper use and applicability of labor hour contracts and the requirement to prepare a D&F.	Ongoing	Training on the proper use of labor hour contracts and the required documentation will be provided in-house.
	II. F. 2 Develop a D&F template for contracting officers.	Completed	OCM has implemented a template for contracting officers.
G The Policy and Use of Non-Personal Services from Individual Contractors LCR 2111 Should Be Examined	II. G. 1 Develop directives that clearly set forth the policy and constraints for using LCR 2111.	Agree	OCG is working on revisions to LCR 2111 and its accompanying form (LW 3163) and will coordinate with the Office of Contracts regarding the revisions. Once the LCR is approved for implementation, OCM will issue guidance that clearly sets forth the policy and constraints.
	II. G. 2 Ensure that the contracting officer and management officials approving contracts on behalf of the Library pay special attention to all contracts that fall under LCR 2111 when they are conducting their reviews.	Complete	OCM has already implemented this process.
H Mischaracterization of Labor Hour Contracts as Fixed Price	II. H. 1 Ensure all staff is trained on the different procurement vehicles and contract types available and on their appropriate use.	Completed	All staff are trained and experienced in the types of contracts required for a specific contract award. This includes the appropriate use of labor hour contracts.
	II. H. 2 Utilize performance-based acquisition methodologies as a method to promote thinking in terms of outcomes and deliverables.	Agree	This training is part of the required training curriculum identified for Office of Contracts staff. In considering various possible approaches, OCM will work with customers to promote thinking in terms of outcomes and deliverables.
I Contract Options Being Used Incorrectly	II. I. 1 Provide training for all in the acquisition chain regarding limits on the use of options and the level of documentation required when they are included or exercised.	Agree	This will be included in outreach and internal training forums
	II. I. 2 Ensure that the contracting officer and management carefully review the use and exercise of options.	Agree	The quality assurance program will include review of the use and exercise of options.

Office of Support Operations
Office of Contracts Management
Management Response

Library-Wide Acquisition Function
OIG DRAFT Special Report No. 2011-SP-106
Report Date February 28, 2012

CATEGORY AND FINDINGS	REPORT RECOMMENDATIONS	MGMT DECISION	MANAGEMENT RESPONSE
<p>J Continuing Challenges with the Momentum Contract Writing System</p>	<p>II.J.1 Ensure Momentum is properly configured to meet contracting specialists' needs.</p> <p>II.J.2 Modify Momentum Acquisitions to create all of the different types of contract documents used by LOC.</p> <p>II.J.3 Conduct spot check reviews that solicitations are being prepared in Momentum.</p> <p>II.J.4 Develop a contracting specialist performance standard: "Creates and documents all required actions in Momentum."</p> <p>II.J.5 Provide necessary training on the proper use of Momentum Acquisitions to appropriate LOC users.</p> <p>II.J.6 Track "Contracting Specialist Use of Momentum" as a performance metric.</p>	<p>Agree</p> <p>Agree</p> <p>Disagree</p> <p>Disagree</p> <p>Disagree</p> <p>Disagree</p>	<p>While OCM is a primary user of Momentum, OCM is not the system owner and cannot ensure its proper configuration. However, OCM is regularly engaged with the system owner to identify contracting specialists' needs, requirements and challenges.</p> <p>While OCM is a primary user of Momentum, OCM is not the system owner and cannot modify the configuration. However, OCM is regularly engaged with the system owner to identify needs, requirements and challenges.</p> <p>All solicitations can only be created in Momentum.</p> <p>There is no way to identify a performance standard as all contract work can only be done in Momentum.</p> <p>While OCM is a primary user of Momentum, the system owner has responsibility for providing training and answering hotline questions about the use of Momentum. OCM does provide a forum, via its monthly Contracts Working Group meetings, to identify and elevate Momentum challenges to the system owner's representative for discussion and resolution.</p> <p>As all contracts are created in Momentum and only in Momentum, tracking this metric would not add value.</p>
<p>III. CUSTOMERS (Planning, Knowledge, Responsibilities, and Service)</p> <p>A Additional Efforts to Promote Communication with Customers are Needed</p>	<p>III.A.1 Develop a customer survey tool in order to solicit customer feedback.</p> <p>III.A.2 Revise performance plans to emphasize sound, proactive communication with customers.</p> <p>III.A.3 The Chief of Contracts should develop and implement a plan to improve OC's communication and relationships with customers.</p> <p>III.A.4 Develop an automated tool to enable customers to quickly and easily track progress of their requisitions and to further promote effective communication.</p>	<p>Completed</p> <p>Completed</p> <p>Ongoing</p> <p>Agree</p>	<p>A customer survey has been developed and OCM is coordinating its implementation.</p> <p>Performance plans include accountability for striving to meet customer requirements.</p> <p>OCM has implemented pathways to improve communication and relationships with customers through numerous initiatives: OCM has scheduled regular meetings with customers; the Contracts Working Group meets monthly; an email account and hotline number was established in FY11 to field customer inquiries; OSO chartered an intranet site working group to upgrade the OCM website to include guidance, FAQs, templates and forms.</p> <p>Included in management assessment task to review current capability for real time status update on requisitions.</p>

Office of Support Operations
Office of Contracts Management
Management Response

Library-Wide Acquisition Function
OIG DRAFT Special Report No. 2011-SP-106
Report Date February 28, 2012

CATEGORY AND FINDINGS	REPORT RECOMMENDATIONS	MGMT DECISION	MANAGEMENT RESPONSE
<p>B Customers Lack Understanding of their Roles and Responsibilities Related to Planning and Executing their Acquisitions</p>	<p>III. B. 1 Restructure the Alert Handbook into a series of user-friendly, PowerPoint customer service training packages directed at two levels: (a) Tier I - Executive leadership council for higher level executives - 1 hour; (b) Tier II - Service Units who are responsible for requesting specific contract actions - 3 hours</p> <p>III. B. 2 Provide outreach training to those customers needing a better understanding of their acquisition-related duties and responsibilities.</p> <p>III. B. 3 Require Library senior leadership to enforce customer training/performance of acquisition-related roles.</p> <p>III. B. 4 Develop a Standard Operating Procedure Procurement Process SOP so that customers understand that a good procurement package includes a SOW with the salient characteristics of the item or services to be purchased market research, IGCE, and the evaluation factors used in the evaluation process. The SOP should include a Procurement Package Checklist.</p>	<p>Agree</p> <p>Ongoing</p> <p>Completed</p> <p>Agree</p>	<p>To promote understanding of their roles and responsibilities, and of related procurement policies pre- and post-award, OCM will create 1) a Desk Guide for executive leadership and 2) Standard Operating Procedures for service unit procurement staff.</p> <p>FAC-COR Level 2 certification training was rolled out January 2012. Level 1 and Level 3 training is open for registration.</p> <p>OCM guidance was distributed to Senior Level management in January 2012, establishing new mandatory training and requirements for COR certification. Service Units are required to validate their list of CORs.</p> <p>To promote understanding of their roles and responsibilities, and of related procurement policies pre- and post-award, OCM will create 1) a Desk Guide for executive leadership and 2) Standard Operating Procedures for service unit procurement staff.</p>
<p>C CORs Lack the Requisite Training to Perform their Responsibilities</p>	<p>III. C. 1 Rapidly develop a COR training program and institute a process within the Office of Contracts Management to record and monitor COR training.</p> <p>III. C. 2 Appoint CORs only after they have taken the requisite training.</p> <p>III. C. 3 Track "Percentage of COR Certifications" as a performance metric.</p>	<p>Completed</p> <p>Agree</p> <p>Completed</p>	<p>FAC-COR Level 2 certification training was rolled out January 2012. Level 1 and Level 3 training is open for registration. A system is in place to record and monitor COR training.</p> <p>CORs will be assigned based on the latest OFPP memo on FAC-COR certification requirements.</p> <p>Tracking of certifications was implemented in FY12.</p>
<p>D Managing Institutional Knowledge and Identifying Sharing Best Practices is Lacking</p>	<p>III. D. 1 Develop a Knowledge Center (KC) in a SharePoint environment. This KC could be the homepage for the acquisition workforce, providing them with a single point of entry to websites, electronic tools, reporting, templates, policy, people, organizations, wikis, blogs, and discussion groups relevant to their mission. The site should have the ability to store a variety of documents, index those documents, and provide a seamless easy way to search for those documents.</p>	<p>Agree</p>	<p>OSO is reviewing the capabilities of existing LC systems that could possibly be adapted, and will consider those and other options to share knowledge and best practices.</p>

▶▶ APPENDIX B: JEFFERSON REPORT

Final Report
April 2, 2012



Jefferson Solutions
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▶▶ EXECUTIVE SUMMARY

The Library contracted with Jefferson Solutions (Jefferson) to evaluate the extent to which the Library's Office of Contracts (OC), excluding the FEDLINK function, conforms to applicable federal regulations, best practices, and guidance in its procurement contracts for goods and services. The task was twofold: (1) to evaluate the extent to which internal policies conform to the Federal Acquisition Regulation (FAR), other applicable authorities, and best practices; and (2) conduct a file review of a sampling of fiscal year 2011 contracts to evaluate compliance with applicable policies and regulations.

Jefferson first reviewed all OC Management policies, memorandums, Library of Congress Regulations (LCRs), Contracts Operating Instructions Manual as well as information and documents on the OC's intranet site (e.g., information documents, Alert Handbook). Applying a prescribed methodology, the Jefferson team selected 129 total contract files for review as part of this audit.

Jefferson incorporated its findings from the contract file review, interviews, and review of regulations, policies, and guidance in a framework developed by the U.S. Government Accountability Office (GAO) in 2005, which was developed to promote "top-down" assessments of strengths and weaknesses of the acquisition function at federal agencies. (See *Framework for Assessing the Acquisition Function at Federal Agencies (GAO Framework)*, GAO-05-218G, September 2005). After employing the GAO methodology, we summarized our findings into three categories for ease of understanding. Those categories are Management of the Acquisition Function, Technical Issues, and Customers (Planning, Knowledge, Responsibilities, and Service). Within those categories, we presented 21 findings and 51 recommendations for rehabilitating the Library's procurement function. In addition, we identified 10 root causes that either individually or in some combination were factors in creating the systemic or compliance weaknesses we identified.

The following is a summary by category of our detailed audit findings.

Procurement Function Category

Summary of Findings

I. Management of the Acquisition Function	Our review of the Library's acquisition function identified significant deficiencies and weaknesses in its management infrastructure. Specifically, the OC lacked proper management support and visibility within the organization. There are key vacancies within the OC. Although the OC Chief is acting in the Director capacity, the failure to fill the top-level acquisition position sends a negative message about the role of the
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acquisition function within the organization. The OC is also lacking knowledgeable, experienced contract specialists. There is also an insufficient supervisory structure within the OC. It has no management tool in place to gauge and measure the overall performance and health of the procurement function. Lastly, the OC is lacking an effective quality assurance program to ensure compliance and to protect the Library from improper expenditures and inappropriate purchases.

II. Technical Issues

We identified numerous deficiencies in critical steps in the acquisition process—such as in planning, requirements development, market research, and contract administration. Specifically, we found insufficient procurement planning, market research, and full and open competition. We also found inadequate Independent Government Cost Estimates, price reasonable analysis, and labor-hour determination and findings. In addition, we identified errors in the classification and characterization of contracts and incorrect use of contract options. Lastly, we found that the OC lacked an effective contract-writing tool.

III. Customers (Planning, Knowledge, Responsibilities, and Service)

Our review identified significant problems in the communication and cooperation between the OC and its customers. These problems have a negative effect on the acquisition planning process, the resolution of conflicts, and on the administration and management of contracts. Furthermore, institutional knowledge is neither effectively managed nor best practices shared to direct contract specialists and OC customers to information about the Library's acquisition policies, procedures, laws, and regulations.

Root Cause Analysis

We analyzed each of our findings and identified causes that we concluded were central to the identified weakness. We have labeled those causes “*root causes*” since we believe they are central causal conditions creating the weaknesses. In some cases, more than one root cause affected a finding. In all, we linked the following 10 primary root causes to all the identified findings. We believe that addressing the root causes of the weaknesses is key to effectively changing the Library's acquisition culture.

Root Causes Creating Procurement Function Weaknesses

Cause	Description
1. Lack of Customer Training and Guidance	The lack of customer training and guidance is leading to poor acquisition planning and poor and/or incomplete requisition packages.
2. Lack of Contracting Specialist Training	The Library has poor compliance with established regulations, policy, and guidance. The inclusion and exercise of options on Library contracts are often not in conformance with FAR requirements. The contracting officer's rationale for finding prices to be "fair and reasonable" is often poorly documented in the contract files. These deficiencies are due to the contract staff being largely inexperienced. The Library must make a significant investment in training its contracting staff.
3. Inadequate Policy Guidance	Contract policy guidance is outdated and/or not particularly helpful.
4. Insufficient Supervision	All contract staff presently report to the Head of Contracts. He also carries an operational workload and is tasked with administrative matters by the OC Chief. This is an unreasonable span of control and does not permit adequate time to provide sufficient supervision.
5. Acquisition Function Not Fully Defined	There is a lack of organizational dedicated support components that are normally assigned to an acquisition office. The OC needs a support component to ensure effective and efficient performance of critical functions.
6. Lack of Management Emphasis	OC management has not: (1) put a sufficiently rigorous review process in place to ensure that contracts are executed in accordance with Library and Federal Acquisition Regulations and policies; (2) stressed the importance of competition—over 53% of the contracts reviewed were awarded noncompetitively; and (3) tracked performance metrics related to effective procurement and contract administration.

- | | |
|---|---|
| 7. Failure to Promote Communication | Poor communication and cooperation between the service units and the contracting specialist negatively affects acquisition planning, the resolution of conflicts, and effective monitoring of contractor performance resulting in a lack of confidence in the ability of the OC to meet service units' needs. |
| 8. Momentum System Not Configured Correctly | OC staff is hampered by the absence of an effective and efficient contract-writing package in Momentum. Excess time and errors occur because OC manually builds contract clauses and solicitations from scratch. |
| 9. No Accountability to Ensure Contract Officer Technical Representatives (CORs) are Properly Trained | Contracting specialists are not validating that CORs have the requisite training prior to appointment. It is unclear which office tracks COR certification. CORs should only be appointed after they have taken the requisite training. |
| 10. Failure to Promote Knowledge Sharing and Best Practices | Institutional knowledge is neither effectively managed nor shared via best practices. The OC intranet is lacking in current, user-friendly content. Procurement material is difficult to locate—both for the contracting specialist as well as for the COR and program customer. |

The issues we identified affecting the acquisition function and the related root causes are systemic in nature and have negatively affected the acquisition function over an extended period exposing the Library to high and unacceptable risk. To address these issues senior Library management should implement a strategic approach that is function-wide. Management focusing solely on the OC will not alleviate the foundational weaknesses affecting the acquisition function.

Management Response

Jefferson received a copy of the memorandum response to its draft report from the Chief, Office of Support Operations (OSO), dated March 23, 2012. In its response letter, OSO concurred with the majority of Jefferson's recommendations and asserted that OC has already begun to implement recommendations from the report. In its response letter, however, OSO recommended an edit in regards to the report's mention of CICA requirements. It advised that while the Library is subject to the requirement of competition, it is not bound by CICA. Jefferson revised the report accordingly. OSO also disagreed with Jefferson's recommendations concerning Momentum. OC's position is that all solicitations can and are only created in the Momentum system. However, staff interviewed by Jefferson stated otherwise. Contracting specialists interviewed reported copying terms and conditions, FAR, and LOC clauses from other documents and pasting them into Momentum, instead of using the system's clause logic.

OSO also stated that while OC is a primary user of Momentum, the system owner is responsible for providing training and answering hotline questions pertaining to Momentum use. Jefferson reiterates the longstanding reported issues with Momentum and notes that although OC may not be the system owner of Momentum, certainly OC is the primary user of the Contracting Writing Tool of the Momentum system. OC has been hampered for some time now by Momentum's failure to meet OC's needs—either due to configuration issues or the failure to properly train staff on the system. A concerted effort by all parties to get to the bottom of Momentum's deficiencies will be beneficial to the Library's acquisition function.

▶▶ INTRODUCTION

In September 2011, the Library of Congress (LOC) Office of the Inspector General (OIG) awarded Jefferson Solutions¹ (Jefferson) a contract to evaluate the extent to which LOC's Office of Contracts and Grant Management (OCCGM), excluding FEDLINK, conforms to applicable federal regulations, best practices, and guidance in its procurement contracts for goods and services. More specifically, the contract required that Jefferson: (1) evaluate the extent to which internal policies conform to the Federal Acquisition Regulation (FAR), other applicable authorities, and best practices; and (2) conduct a file review of a statistical based sample of fiscal year (FY) 2011 contracts to verify conformance to applicable policies and regulations.

Acquisition is at the very core of all of Jefferson's offerings. Jefferson has supported more than 48 federal agencies by providing training, acquisition assistance, acquisition assessments, and program management for complex government programs. With a team of strategic and tactical procurement experts (including former agency procurement directors), Jefferson provides a practical actionable approach to understanding and building strong acquisition policies, business processes, staffing models, and workload drivers. Jefferson staff are experts in strategically aligning and developing the acquisition function. Jefferson has completed numerous acquisition assessments and provided best practices and benchmarking analyses to a host of federal agencies to optimize operational and organizational performance.

Based on over 15 years of experience, current knowledge of best practices, and benchmarking analyses from a host of federal agencies, Jefferson is equipped to address the crucial federal acquisition process and has assisted multiple agencies in creating efficient, effective, and successful acquisition programs. In addition to addressing the agency-wide acquisition culture, Jefferson is skilled at managing individual procurements and maintains a comprehensive understanding of the intricacies that drive change and optimal performance within the acquisition function.

¹ Jefferson Solutions is Jefferson Consulting Group, LLC Company, a small women-owned business.

▶▶ BACKGROUND

During fiscal year (FY) 2011, the Office of Contracts and Grants Management (OCGM) transacted 2,725 procurement actions totaling over \$210.3 million. OCGM is a component of the Library's Office of Support Operations² (OSO) and operates its Office of Contracts (OC) under the direction of the Chief of Contracts with a staff of 25 procurement and administrative employees³. The Chief is also a member of the Library of Congress (LOC or Library) Operations Committee⁴.

During the initial phase of our review, we learned that the Library has endured long-term and significant problems with the acquisition function and that the OC is consistently the focus of these issues. The Office of the Inspector General (OIG) conducted several previous audits that identified multiple systemic and compliance weaknesses that remain unresolved. The weaknesses identified by OIG were agency and function-wide and not departmentally centered. These underlying weaknesses were compounded during the final critical 45 days of FY 2010 when the OCGM director abruptly resigned. The loss of the director and several key procurement supervisory staff are symptomatic of the significant staff turnover that has become characteristic of the Library's OC. OIG expressed concern that the combination of untimely staff turnover and ongoing function-wide internal control deficiencies creates a climate that exposes the Library to high-levels of risk; risks that may include [REDACTED] [REDACTED] fraud, waste, and abuse.

Based on our initial survey of the Library's acquisition environment, we concluded that the challenges facing the LOC were strategic in nature and required an analytical methodology that employed a systematic approach. Therefore, we employed the U.S. Government Accountability Office's (GAO) *Framework for Assessing the Acquisition Function at Federal Agencies*.⁵ GAO developed this framework to enable high-level, qualitative assessments of the strengths and weaknesses of the acquisition function at federal agencies. The framework consists of four interrelated cornerstones that are essential to an efficient, effective, and accountable acquisition process. The cornerstones are: (1) organizational alignment and leadership, (2) policies and processes, (3) human capital, and (4) knowledge and information management. The framework supports an

² OSO is a significant element of the Library's infrastructure and includes Human Resources Services, Office of Opportunity, Inclusiveness, and Compliance, Office of Contracts and Grants Management, Integrated Support Services, and the Office of Security and Emergency Preparedness.

³ See Appendix A, OCGM Organization Chart.

⁴ The Operations Committee provides the Library's senior programmatic and infrastructure managers with a forum for information sharing and a focused operational and problem-solving exchange.

⁵ See GAO report *Framework for Assessing the Acquisition Function at Federal Agencies*, GAO-05-218G, September 2005, for information about this methodology.

integrated evaluation approach that addresses the acquisition function on an agency-wide basis. During our review, we tailored GAO's framework to meet the Library's specific features and requirements.

The acquisition function begins with the drafting of the Library's Congressional Budget Justification, encompasses all areas of the agency, and transcends several fiscal years. The function involves not only the initiating service unit but also budgetary, financial, legal, human resources, logistical, information technology, and auditing support throughout the agency. Solutions to agency-wide functional deficiencies require long-term planning and coordination from multiple resources and areas of responsibility. Those charged with affecting function-wide solutions must be positioned at the senior agency level to accomplish the necessary changes.

►► OBJECTIVES, SCOPE, AND METHODOLOGY

In accomplishing the objectives identified in our introduction, we reviewed the OC’s policies, memorandums, Library of Congress Regulations (LCRs), Contracts Operating Instructions Manual (COI), and information on OCGM’s intranet site (an internal OCGM resource).

We conducted structured interviews with OC management and contract specialists to gather background information on the acquisition function’s activities and procedures. We also interviewed Contracting Officer Representatives (CORs) and OCGM customers to obtain an understanding of the level of service that the OC was providing and to also test their understanding of their role and responsibilities in the acquisition process. Lastly, we interviewed Library management for information regarding OCGM’s position and importance within the Library and to assess the current Library-wide acquisition culture.

To evaluate the extent to which the OC conformed to applicable authorities, we conducted a statistical sample test for attributes of 129 randomly selected contract awards made in FY 2011. The sample was selected from the 472 contracts awarded over \$25,000 in FY 2011. There were a total of 844 procurement actions over \$25,000 in FY 2011; however, for the purpose of this review we excluded all task orders, interagency agreements, procurements on behalf of Open World Leadership Center, modifications and amendments and associated dollars. This resulted in a total population size of 472 contract awards. In determining this sample we utilized the following parameters: (1) 90 percent as the sample confidence level, (2) plus or minus 5 percent precision, and (3) expected error rate of 3 percent. Based on these parameters, the OIG’s sampling software, EZ Quant, randomly selected 129 of the 472 contract awards for review. Figure 1 provides the make-up of the stratified universe of contract awards while Figure 2 provides the make-up of the stratified sample of contract awards.

FIGURE 1

Stratified Universe of Contract Awards

Contract Value Range	Number of Contracts	Value of Contract Actions	Percentage of Value
\$25,000 - \$100,000	321	\$ 16,533,453.37	21%
\$100,001 - \$500,000	120	\$ 27,825,573.79	35%
\$500,001<	31	\$ 35,539,080.52	44%
Total	472	\$ 79,898,107.68	100%

FIGURE 2

Stratified Sampled Contract Awards

Contract Value Range	Sampled Contracts	Value of Contract Actions	Percentage of Value
\$25,000 - \$100,000	32	\$ 1,788,185.10	3%
\$100,001 - \$500,000	66	\$ 14,858,677.68	29%
\$500,001<	31	\$ 35,539,080.52	68%
Total	129	\$ 52,185,943.30	100%

»» FINDINGS AND RECOMMENDATIONS

Overview

Our analysis of the LOC acquisition function revealed significant deficiencies to include a lack of adequate supervisory structure, insufficiently trained staff, failed internal control and quality review processes, gross overuse of sole source procurements, poor or incomplete requisition packages by service units, and contract files that are not in compliance with policy and regulation. These deficiencies have been long-standing—many of our findings are the *same* as those identified in the OIG 2008 Report, *Lack of Compliance with Library Contracting Policy is Widespread*. Four years later the Library continues to be exposed to high and unacceptable risk. Solving the function’s deficiencies will require a significant effort on the part of senior agency management including substantial investments in financial and human capital. Rehabilitation of the acquisition function should occur independently of the ongoing daily operations of the OC and will require a project management approach that orchestrates action in multiple areas.

We determined that repairing the acquisition function will require senior management to address a multitude of issues including organizational structure, policy and procedures, training and development, supervisory roles and activities, planning, product knowledge and uniformity, quality control and assurance, human capital management, information technology, customer service and responsibilities, and intra-agency communication. The ultimate management goal is to transform the OC’s acquisition function from a Library weakness into a Library strength, with all service and support units confidently interacting with OCGM to accomplish their strategic goals.

In establishing a foundation to transform the acquisition function, senior agency management must first define the characteristics of a successful acquisition culture. By defining what a successful acquisition culture embodies, Library management can project the desired outcomes and attributes into an accomplishable plan of action. Working backwards it can identify the resources, actions, and timing necessary to transition from the current flawed culture to an institutional strength.

GAO’s *Framework for Assessing the Acquisition Function* depicts the elements required for a successful acquisition function and identifies the critical success factors that management must accomplish to create a successful acquisition culture. In contrast to the current culture, we believe that Library management should strive to develop an acquisition function that embodies the following characteristics:

- Seen as a reliable acquisition subject matter expert and partner in the acquisition life cycle;
- Initiates the acquisition planning cycle, evaluates customer needs, and identifies the best applicable procurement vehicle for serving the customer;

- Effectively monitors the acquisition pipeline to assure all procurements are successfully awarded according to plan;
- Provides quality assurance in overseeing procurement solicitations, awards, performance, and deliverables;
- Obtains best value for the Library;
- Consummates awards that provide Library customers with technically sound contracts and maximum leverage in the event of vendor disputes;
- Guides service/support units during the contract administration phase;
- Conducts a program that develops and maintains an agency-wide group of Contracting Officer Representatives (CORs) that are technically knowledgeable, competently oversee contract administration, and assure contract deliverables;
- Establishes staff tenure reflecting functional stability, institutional knowledge, and product consistency; and
- Maintains accurate and complete acquisition records.

Figure 3 should be of use to Library management as guidance in developing the desired acquisition characteristics mentioned above.

Figure 3: Framework for Assessing the Acquisition Function		
Cornerstones	Elements	Critical Success Factors
Organizational Alignment and Leadership	Aligning Acquisition with Agency's Missions and Needs	<ul style="list-style-type: none"> • Assuring Appropriate Placement of the Acquisition Function • Organizing the Acquisition Function to Operate Strategically • Clearly Defining and Integrating Roles and Responsibilities
	Commitment from Leadership	<ul style="list-style-type: none"> • Clear, Strong, and Ethical Executive Leadership • Effective Communications and Continuous Improvement
Policies and Processes	Planning Strategically	<ul style="list-style-type: none"> • Partnering with Internal Organizations • Assessing Internal Requirements and the Impact of External Events
	Effectively Managing the Acquisition Process	<ul style="list-style-type: none"> • Empowering Cross-Functional Teams • Managing and Engaging Suppliers • Monitoring and Providing Oversight to Achieve Desired Outcomes • Enabling Financial Accountability
	Promoting Successful Outcomes of Major Projects	<ul style="list-style-type: none"> • Using Sound Capital Investment Strategies • Employing Knowledge-Based Acquisition Approaches
Human Capital	Valuing and Investing in the Acquisition Workforce	<ul style="list-style-type: none"> • Commitment to Human Capital Management • Role of the Human Capital Function
	Strategic Human Capital Planning	<ul style="list-style-type: none"> • Integration and Alignment • Data-Driven Human Capital Decisions
	Acquiring, Developing, and Retaining Talent	<ul style="list-style-type: none"> • Targeted Investments in People • Human Capital Approaches Tailored to Meet Organizational Needs

	Creating Results-Oriented Organizational Cultures	<ul style="list-style-type: none"> • Empowerment and Inclusiveness • Unit and Individual Performance Linked to Organizational Goals
Knowledge and Information Management	Identifying Data and Technology that Support Acquisition Management Decisions	<ul style="list-style-type: none"> • Tracking Acquisition Data • Translating Financial Data into Meaningful Formats • Analyzing Goods and Services Spending
	Safeguarding the Integrity of Operations and Data	<ul style="list-style-type: none"> • Ensuring Effective General and Application Controls • Data Stewardship

Detailed Findings and Recommendations

After completing our fieldwork analysis using GAO’s framework, we determined it beneficial to further refine the categories for presenting our findings. After consultation with OIG, we established the following categories in which to present our detailed findings:

- I. Management of the Acquisition Function;
- II. Technical issues; and
- III. Customers (Planning, Knowledge, Responsibilities, and Service).

As part of the Library’s overall time and action plan to rehabilitate the acquisition function, we suggest that senior management assign responsibility to specifically designated project leaders to accomplish the recommendations. A senior Library executive such as the Chief of Staff or the Chief of Support Operations should head up overall coordination of the function’s time and action plan. Below we present our detailed findings and recommendations.

I. Management of the Acquisition Function

Our review of the Library’s acquisition function identified significant deficiencies and weaknesses in its management infrastructure. Specifically: (1) the OC lacks proper management support and visibility within the organization; (2) there are key management vacancies within the OC and although the Chief of OC is acting in the Director capacity, the failure to fill the top-level acquisition position sends a negative message about the role of the acquisition function within the organization; (3) the OC lacks knowledgeable and experienced contract specialists; (4) supervisory structure is insufficient; (5) the OC has no management tool in place to gauge and measure the overall performance and health of the acquisition function; and (6) the OC is lacking an effective quality assurance program to ensure compliance and protection from improper expenditures and inappropriate purchases.

A. Need for a Fully Developed Acquisition Infrastructure

The OC has no acquisition infrastructure component, which likely contributes to poor performance within the organization. Specifically, the OC lacks the dedicated support components that are normally assigned to an acquisition office to handle matters such as:

- Policy development and dissemination;
- Acquisition and customer training;
- Reporting; and
- Momentum training and coordination.

The acquisition function needs proper management support and visibility within the organization to meet that goal. Staff training is not tracked or managed. Contract policy guidance is outdated and/or not particularly helpful. These shortcomings are most evident with the Library’s Contracts Operating Instructions Manual (COI). Much of the policy guidance within the manual is simply a restatement of the Federal Acquisition Regulation (FAR), with no added direction as to its specific applicability to the Library. This concern was voiced by several of the staff interviewed. Moreover, the COI is not organized in any logical manner to promote easy accessibility.

Recommendations

1. Establish a support component to ensure effective and efficient performance of critical functions that support the Office of Contracts. The position should be staffed with a senior, experienced General Schedule (GS)-1102, grade 14.
2. Rewrite the COI manual deleting those policies that merely restate the FAR and drafting specific guidance geared toward the Library’s acquisition activities. Organize the COI so that it is easily accessible.

Management Response

1. Agree. The organization, responsibilities and staffing of a component that would support the overall acquisition infrastructure (and OCM⁶ specifically) is currently being evaluated.
2. Ongoing. OCM has begun to review the COI manual with additional emphasis on appropriate content and accessibility. OCM envisions an acquisitions regulation system that fully documents agency-specific acquisition policies and practices, and standard operating procedures that will guide relationships between the Library, contractors, prospective contractors, and internal procurement stakeholders.

B. Organizational Alignment and Vacancy

There are key vacancies within the Office of Contracts. Although the Chief of OC is acting in the Director capacity, the failure to fill the top-level acquisition position sends a negative message about the role of the acquisition function within the organization.

The OC resides within the OCGM. This is one of five infrastructure services under the Chief of Support Operations. The Director of OCGM is the Library’s senior procurement

⁶ OC is used by Jefferson to refer to the Office of Contracts, while OSO’s Management Response to the Draft Audit Report uses OCM. Both abbreviations refer to the same organization—Office of Contracts.

officer and performs the functions of the “Senior Procurement Executive” as specified in the FAR. The Director reports to the Chief of Support Operations. This position was created in 2003 but not filled until April 2008. In September of 2010, the position became vacant again and is not yet filled. There is uncertainty as to when and whether the Director position will be filled. The Chief of Support Operations, however, stated that it was the Library’s intention to backfill the Director position in FY 2012.

Currently, the Chief of OC is responsible for the acquisition function. The Chief is supported by the Head of OC, who is the supervisor for all contract specialists. The team leads are non-supervisory positions. OCGM has three tiers of management—the Director, Chief of Contracts, and the Head of Contracts. However, the distinct roles and responsibilities of these three tiers are unclear.

Recommendations

1. Fill the Director slot with a permanent, qualified and experienced acquisition professional. This will signal the importance of the acquisition function within the Library and provide much-needed guidance and leadership to the OC.
2. Examine the need for both a Director and Chief of Contracts position. If retained, both roles and responsibilities should be clearly defined.

Management Response

1. Agree. The organizational alignment, management and staffing needs of the Office of Contracts and Grants Management is currently being evaluated by OSO. The office is actively engaging its customers to emphasize the importance of the acquisition function and to facilitate timely acquisition planning and execution.
2. Ongoing. The organizational structure, management and staffing needs are currently being evaluated as part of a rigorous assessment of the current and future state of OCM. Roles and responsibilities of all staff in the office will be clearly defined.

C. Lack of Supervision

One supervisory contract specialist has an unreasonable span of control, creating an inability to provide review and mentoring. We attribute this condition to an insufficient supervisory structure within the contracting organization.

The OC staff (approximately 14) report to the Head of the OC, who is the supervisory GS-1102-14 contracting officer. The Head of the OC also carries an operational workload and is tasked with administrative matters by the Chief of the OC. Contracting specialists stated that because of other duties, the Head of the OC did not have adequate time to provide sufficient supervision. Although the Head of the OC may be assisted by the team leaders, having all 1102s report to him is an unreasonable span of control to effectively provide oversight and mentoring support. This is particularly problematic in

that the staff are junior and relatively inexperienced and in need of significant supervision and guidance.

Recommendation

1. Define and implement an organizational structure for the OC that provides a reasonable supervisory span of control. Specifically, the OC requires two experienced contract specialists, Federal Acquisition Certification in Contracting (FAC-C) Level III contract professionals, GS-1102-14s, to facilitate close supervision and mentoring of contract staff.

Management Response

Ongoing. OSO determined in fiscal year 2011 that the supervisory structure in place prior to the reorganization was not sufficient. OCM is actively working to hire two additional qualified GS-1102-14 Supervisory Contracting Specialists to establish an appropriate level of supervision, mentoring and oversight.

D. Key Performance Metrics are Not Being Tracked, e.g., Competition

The OC does not have a management tool in place to gauge and measure the overall performance and health of the contracting function. Measuring the extent of competition (or lack thereof); the staff turnover rate; and training that is needed are critical indicators in need of a management tool. By not tracking key metrics, the OC has no gauge for measuring overall organizational performance and health.

Outcome-oriented performance measures are used to assess the success of the acquisition function. Measures are designed and used to gauge the contribution that the acquisition function makes to support the agency/component's mission and goals. Metrics used by leadership are targeted at demonstrating the impact and value of the acquisition function and provide useful feedback to identify areas for improvement.

However, the Chief of OC is developing a Dashboard to monitor performance. Although the draft Dashboard is a good start; it should place greater emphasis on measuring performance, rather than standards that would be more suitable in the Chief of OC's performance plan. For instance the draft Dashboard provides "*Identify a curriculum and vendor for revamped COR mandatory training by the 1st Quarter FY 12*" and "*Design a survey tool that measures customer satisfaction with the level of service provided*". We suggest revising the draft Dashboard to include "*Percentage of certified 1102s meeting qualification standards,*" "*Percentage of COR's trained,*" and to specifically identify percentages for timeliness and quality in the customer satisfaction survey tool.

Recommendation

1. Develop a balanced scorecard approach to measure the effectiveness of the contracting function. Key dashboard metrics should include:
 - a. Percentage of Competitive Actions and Dollars;

- b. Number of Ratifications;
- c. Procurement Action Lead Time;
- d. Percentage of Staff FAC-C Certified;
- e. Staff Turnover Rate;
- f. Customer Satisfaction Results; and
- g. Contract Specialist Use of Momentum.

Management Response

Complete. OSO developed and implemented an effective performance management tool in November 2011. The OCM biweekly dashboard includes key metrics for measuring the effectiveness of the entire acquisition lifecycle, including acquisition planning, PALT, customer satisfaction, staff learning and growth, and management reporting. Other key metrics are tracked off the dashboard.

E. Contract Specialists Lacking in Knowledge and Experience

Contracting specialists have insufficient skills, knowledge and experience to efficiently, and effectively perform their acquisition responsibilities. The OC has suffered from high turnover rates and there are no solid training, mentoring, or orientation efforts. Successful acquisition outcomes are a direct result of having the right personnel supporting the acquisition lifecycle. The Library needs talented and trained individuals who can develop, manage, and oversee acquisitions in accordance with sound acquisition management principles.

Of the contract specialists (excluding FEDLINK personnel), 43 percent have some level of FAC-C certification. None of the contract specialists are certified at FAC-C Level III. The Chief of OC stated that certifications were not considered until he began hiring personnel in 2010. It is the Chief's goal that all contract specialists complete FAC-C Level III training within four years. The Simplified Acquisition Team is not certified at any level. However, the Chief stated that those contract specialists would be encouraged to take the same courses required of the contract specialists.

Although the FAC-C Program is not required for contracting professionals in the legislative branch, it has become the gold standard for establishing the minimum education, training, and experience requirements of contracting professionals in the 1102 series. The Office of Federal Procurement Policy's (OFPP) *Policy Letter 05-01* and Office of Management and Budget (OMB) Memorandum, *The Federal Acquisition Certification in Contracting Program*, dated January 20, 2006 established the standard. The intent of the FAC-C Program is to ensure that all contracting professionals throughout the government are properly trained and qualified to effectively conduct the acquisition business of the government.

Compounding the situation is the fact that the Library's contracting staff has suffered extreme turnover. With the exception of the Head of Contracts, no contracting specialist at the Library has been on the job for more than nine months. The contract specialist turnover was nearly 100% at the end of 2010. Service units expressed strong concern about contract staff turnover and complained that some requisitions were prolonged because the contracting specialist facilitating the procurement left the Library and no alternate contracting specialist assumed responsibility.

Because there is no support component within the acquisition function, no one is monitoring the needs of contract specialists for acquisition training. A good acquisition office identifies competency gaps and maps out individual development plans which address those gaps. The Library's lack of training likely contributes to the high staff turnover rate. Moreover, there is no orientation or staff mentoring program which also likely contributes to staff turnover and low morale. As a result, the Library continues to receive poor quality procurement activities as evidenced by many of the contract awards we reviewed.

Recommendations

1. Quickly develop and implement a rigorous training program.
2. Develop training goals, (i.e., obtain FAC-C level I certification for all staff within 12 to 14 months).
3. Ensure all staff members have individual development plans.
4. Develop and implement an orientation/mentoring program for new employees.

Management Response

1. Complete. OCM developed and implemented a rigorous staff training program. In fiscal year 2011, OCM conducted an assessment of specialized training and certification requirements, developed and funded a specific training curriculum in accordance with OFPP requirements, and other identified training. For example, FAR immersion training was conducted in February 2012 and IGCE training is scheduled for Q3.
2. Complete. Training goals and targeted certification levels for various positions in OCM have been developed and are being achieved. 89% of the 1102-series Contracting Specialists hired since February 2011 are certified as FAC-C Level 1, Level 2 or Level 3, as appropriate to the position and grade. Training goals have also been developed and funded for remaining 1102s to achieve certification within 12-14 months. The 1105-series staff have been funded to achieve Level 1 certification, within 24 months, exceeding the position requirements.
3. Complete. OCM implemented a Performance Management Program, including Individual Development Plans for the period November 1, 21011 to October 31, 2012. Supervisors are accountable to review staff performance requirements semi-annually and update as appropriate.

4. Ongoing. Beginning October 1, 2011 OCM developed and implemented an orientation program for new and existing Contracts staff to become more knowledgeable about their respective customer program areas, the Library's strategic goals, Momentum, OSO program objectives, and Library decision making. Mentoring opportunities and team building exercises are also being identified.

F. CRB Oversight Process Ineffective

The Contract Review Board (CRB) oversight process is failing to prevent or detect significant deficiencies in the acquisition process. Internal controls are necessary to achieve effective and efficient operations and compliance with laws and regulations. LCR 2110 requires that contracts in excess of \$100,000 are subject to full review by an array of management officials safeguarding the interests of the Library. These individuals range from the Chief of Contracts to the top official, the Librarian of Congress or his designee. The purpose of this review is to assure compliance and to protect the Library from improper expenditures and inappropriate purchases.

The current CRB process reviews all pre- and post-awards (such as modifications and exercise of options) over \$100,000.

The Library guidance on the CRB review is contained in COI 1003, which provides: *“It is the policy of OCGM that the CRB review and approve certain procurement actions before the Contracting Officer takes action. The CRB shall ensure compliance with the documentation requirements of a contract file as set forth in FAR 4.800. In addition, it is the policy of the CRB to ensure that appropriate legal advice is sought by the Contracting Officer when required by either FAR, LCR, or by this instruction, and that the contract file evidences such legal review as required in FAR 4.800. Accordingly, the CRB case along with the contract file shall be submitted to the Office of General Counsel (OGC) subsequent to CRB approval for legal review and concurrence when legal guidance is deemed appropriate.”*

While most actions over the \$100,000 threshold are being reviewed by the CRB and the files contained CRB minutes, the CRB review is failing to catch significant deficiencies. The CRB review is often more of a superficial paper drill than a prudent exercise that adds quality to the process. The following are examples of inadequate CRB reviews:

Inadequate CRB Reviews	
Contract No.	Comments
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

overview process, requiring at least a peer review by a supervisor or a contracting officer with a minimum of a FAC-C Level I certification on all procurement actions over the micro-purchase threshold. Effective CRBs require a pre-solicitation, pre-negotiation, and pre-award review. In the Library's case, COI 1003 states: "...for solicitations only, the CRB will not officially meet. One copy shall be circulated to each CRB member for review and annotation, along with the solicitation checklist and appropriate justifications." The file review, however, did not demonstrate that this occurs. The CRB process appears to be limited to awards and modifications and does not include a process wherein the contracting officer must document how findings and comments were addressed and corrected.

Recommendations

1. Strengthen the oversight process by putting a more rigorous CRB process in place.
2. Rewrite COI 1003 to be a more comprehensive Oversight Policy and Contract Review Process.

Management Response

1. Agree. The CRB process will be strengthened as a result of OCMs review and implementation of a rigorous quality assurance program for the pre-award phase.
2. Agree. COI 1004 issued by the Chief of Contracts December 12, 2011 significantly enhances and defines the review and oversight responsibilities during the pre-award phase. COI 1003 will be updated to reflect the products produced from COI 1004 and the results of the comprehensive review noted above.

G. Insufficient Review Mechanism in Place to Ensure Quality Assurance for Actions under \$100,000

Contract management has not put a sufficiently rigorous review process in place to ensure that contracts are being executed in accordance with Library and FAR policies. The OC currently has no requirements for peer reviews or supervisory reviews of procurement actions under \$100,000.

Our review of the contract files found significant deficiencies that most likely would have been discovered and corrected if a review had occurred. For example:

Significant Deficiencies	
Contract No.	Comments
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

As a result of a lack of quality review process, poor contracts were issued. COI 1003 covers only actions above \$100,000. There is no internal control policy in place for procurements under \$100,000. This is contrary to other contracting offices that generally require at least a peer review by a supervisor or a contracting officer with a minimum of a FAC-C Level I certification on all procurement actions over the micro-purchase threshold.

Recommendation

1. Institute internal controls requiring at least a peer review by a supervisor or a contracting officer with a minimum of a FAC-C Level I certification on all procurement actions over the micro-purchase threshold.

Management Response

Agree. The quality assurance program will include an appropriate review of all awards, including those above the micro-purchase threshold.

Summary of Recommendations

We identified 14 recommendations to improve the conditions described under Finding I, *Management of the Acquisition Function*. The recommendations center, in part, on improving the OC organizational alignment, and developing an acquisition and human capital infrastructure to help OC better achieve its mission and to address long-standing program issues. This includes defining the role and position of the Director of OCGM and improving the organizational supervisory structure. In addition, management needs to establish a tool to monitor the acquisition function and establish sound acquisition policies and procedures. Lastly, we recommend that a rigorous review process be established that would ensure that all contracts are being executed in accordance with Library and Federal Acquisition Regulations and policies.

II. Technical Issues

Our review identified numerous deficiencies at critical steps in the acquisition process. Specific deficiencies existed in planning, requirements development, market research, and contract administration. We found insufficient acquisition planning, market research, and full and open competition. We also found inadequate IGCEs, price reasonable analysis, and labor-hour determination and findings (D&Fs). In addition, we identified errors in the classification and characterization of contracts and incorrect use

of contract options. Lastly, we found that the OC lacked an effective contract writing tool. We discuss the deficiencies in the acquisition process in detail in the following sections.

A. Lack of Adequate Acquisition Planning

The organization does not engage in effective acquisition planning. The pressure to make awards quickly likely hinders reviews and the OC's ability to improve competition. Of the 129 contract awards reviewed only four written acquisition plans were documented. Although some of the service units indicated that they performed annual acquisition planning, contracting officers stated that they did not receive annual plans from their customers. The Chief of OC is now requiring his staff to reach out to customers to gain a better understanding of customers' needs and to initiate a dialogue on acquisition planning.

FAR Part 7.1, *Acquisition Plans* provide extensive regulation relating to acquisition plans, requirements for agency management, and the requirements for contents of a written acquisition plan. Specifically, Subpart 7.105, *Contents of Written Acquisition Plans*, states that written acquisition plans typically include acquisition background and objectives such as statement of need, applicable conditions, cost, capability of performance, delivery or performance period requirements, and trade-offs, etc. The acquisition plan should also include a plan of action highlighting potential sources, competition, source selection procedures, acquisition considerations, budgeting and funding options.

In addition, the Library's policy, COI 1002, *Acquisition Planning* (Dec. 12, 2008) states:

An Acquisition Plan (AP) is required for all acquisitions over the micro-purchase threshold; 8(a) acquisitions; orders against Government-wide Acquisition Contracts; other Multiple Award Contracts; acquisitions from the General Services Administration Federal Supply Schedule.

- (1) It is the joint responsibility of the requiring SU and the OCGM Contracting Officer (CO): (a) to prepare and maintain the AP, in coordination with the Office of General Counsel (OGC) and other functional elements within the Library, as applicable, and (b) to submit the AP for final review and approval.
- (2) As soon as the requiring SU identifies its needs or requirements, the SU head should designate the acquisition planner, preferably an individual who has the technical expertise and business acumen (e.g., the Contracting Officer's Representative (COR) or Program Manager).
- (3) The designated SU acquisition planner shall prepare the Acquisition Planning Document (APD) identified in Attachment 1, as tasked by the director, OCGM. The SU acquisition planner shall consider the OCGM FY 2009 Procurement Administrative Lead-Time Standards (PALTS) identified in Attachment 2 when developing the APD.
- (4) The CO, in close coordination with the SU acquisition planner, shall prepare the AP. The AP should provide sufficient information so that someone unfamiliar with the acquisition will understand what is being procured; however, the plan need not be

lengthy. A concise clear statement of facts and rationale supporting the technical and business judgment is all that is necessary. Also, the AP must be prepared sufficiently in advance of the solicitation release date.

(a) For acquisitions >\$3,000 - <\$25K: The Acquisition Plan shall consist of milestones dates only using the appropriate PALT standards established by OCGM. The OCGM Automation Coordinators shall enter the PALT milestone dates in Momentum; however, the assigned CO or Contract Specialist shall not change or update the PALT milestones without first obtaining the concurrence of the SU customer.

(b) For acquisitions \$25K - \$500K: The Acquisition Plan shall consist of milestones dates using the appropriate PALT standards established by OCGM and a written AP using the Streamlined Acquisition Plan format identified in Attachment 3. The OCGM Automation Coordinators shall enter the PALT milestone dates in Momentum; however, the assigned CO or Contract Specialist shall not change or update the PALT milestone dates without first obtaining the concurrence of the SU customer.

(c) For acquisitions >\$500K: The Acquisition Plan shall consist of milestone dates using the appropriate PALT standards established by OCGM and a written AP using the Standard Acquisition Plan format identified in Attachment 4. The OCGM Automation Coordinators shall enter the PALT milestone dates in Momentum; however, the assigned CO or Contract Specialist shall not change or update the PALT milestones without first obtaining the concurrence of the SU customer.

A lack of effective acquisition planning may have led to hurried reviews and limited the ability to improve competition. Moreover, the lack of planning means that contracting staff are largely unaware of the workload they will be facing in the upcoming fiscal year. Procurements requiring relatively long lead-times to process are not identified in sufficient time to ensure that adequate planning has taken place. The bulk of procurement requisitions are submitted late in the fiscal year with enormous pressures to process them at the expense of quality and/or compliance with existing regulations, policies or processes.

In addition, the lack of acquisition planning by customers and acquisition staff throughout the contracting process often contributes to awards being made without appropriate documentation and on a noncompetitive basis. We attribute the lack of acquisition planning to management's failure to require and enforce it.

Recommendation

1. Institute a set of controls to ensure COI 1002, *Acquisition Planning Policy*, is adhered to.

Management Response

Agree. COI 1002 *Acquisition Planning Policy*, will be rewritten to incorporate recent changes to the Library-wide acquisition planning process, such as the interface with the

Library's new budget planning and execution tool. Discussions have begun on possible controls to strengthen the acquisition program.

B. Failure to Conduct Market Research

Evidence of market research and acquisition planning was missing from the contract files. [REDACTED]

One reason for conducting market research is to assist in preparing an IGCE. Additionally, market research significantly impacts the selection of evaluation factors, contracting and source selection methods, and amount and type of requested proposal information. The extent of market research varies depending on such factors as urgency, estimated dollar value, complexity, and past experience. Documentation of the results of market research should be consistent with the size and complexity of the acquisition. Conducting adequate market research is essential to ensuring that procurements are executed in an efficient manner and for the best value.

FAR Part 10 provides that market research must be conducted to ensure that legitimate needs are identified and trade-offs are evaluated to meet those needs appropriate to the circumstances:

- (1) Before developing new requirements;
- (2) Before soliciting offers for acquisitions in excess of the simplified acquisition threshold;
- (3) Before soliciting offers with an estimated value less than the simplified acquisition threshold when adequate information is not available.

COI 1002, Acquisition Planning (Dec. 12, 2008) provides:

The designated SU AP planner, in coordination with the CO, has the primary responsibility for conducting market research in accordance with the procedures set forth in FAR 10.002. The results of the market research should be documented in a manner

appropriate to the size and complexity of the acquisition using the Market Research Report format identified in Attachment 5. The Market Research Report should be attached to the AP.

We attribute the customer's failure to conduct market research to insufficient training and failure of management to emphasize and enforce policy.

Recommendation

1. Provide outreach training to those customers needing a better understanding of their acquisition-related duties and responsibilities.

Management Response

Ongoing. As part of its FY12 initiative to build capacity, OCM expanded outreach training and support to its customers. FAR immersion training was provided to Service Unit staff in February 2012. A course to provide OCM's first-ever structured training in market research and independent government cost estimates has been identified for Q3.

C. Lack of Competition—Excessive Use of Sole Source Procurements

A review of the sampled contract files indicates that the Library does not stress competition in its procurement actions. Of the 129 contract files reviewed 68 were noncompetitive (53%). Most of the sampled contract files showed poor statement of works, limited to no evidence of market research or acquisition planning, no use of performance-based acquisition, and virtually no synopsis of requirements in accordance with FAR Subpart 5.2. FAR Subpart 5.2 provides that contracting officers must disseminate information on proposed contract actions expected to exceed \$25,000 by synopsis in FedBizOpps.Gov, unless there is an exception such as unusual and compelling urgency. Only about 25% of the sampled files evidenced synopsis of the proposed contract action in accordance with FAR 5.2. Moreover, only a couple of the sample files evidenced synopsis of the contract award, in accordance with FAR 5.3, which generally requires contracting officers to synopsise through the government point-of-entry awards exceeding \$25,000.

The Library relies on and overuses the provisions of FAR Part 6, in particular, 6.302-1, (Only one responsible source and no other supplies or services will satisfy agency requirements) and 6.302-2, (Unusual and compelling urgency):

Only One Responsible Source (FAR 6.302-1):

- Unique supplies or services are available from only one or a limited number of sources;
- The acquisition will be conducted under a follow-on contract for the continued development/production of a major system or highly specialized equipment (or major components thereof);

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

There is also concern with competition under the GSA schedule. Of the contract files sampled, three of the nine GSA Schedule buys were noncompetitive. In three other cases only one vendor responded to the RFQ. For example:

Single Vendor Response to RFQ	
Contract No.	Comments
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

The Library's Chief of Contracts is the Competition Advocate. Library policy on the roles and responsibilities of the Competition Advocate is absent. In the sampled files, there was no evidence/documentation of approval by the Competition Advocate, other than in CRB minutes. See, for example, Contract Nos. [REDACTED]

In a few other cases, the dollar size of the procurement would have required review by the Competition Advocate; yet there was no such evidence in the file. See, Contract Nos. [REDACTED] and [REDACTED]

By not taking advantage of opportunities for competition, the Library is likely paying more for services and supplies and/or limiting access from offerors who would provide superior technical approaches and solutions.

We attribute the lack of competition to several factors. First, contract specialists are not held accountable for the failure to follow competitive procedures. Second, poor market research and the lack of acquisition planning also contribute to the lack of competition. In addition, there is no policy guidance outlining other than full and open competition procedures and requirements for obtaining competition under indefinite quantity contracts, GSA schedules and simplified acquisitions.

LCR 2110 provides that it is the policy of the Library to follow the Federal Acquisition Regulation. Subpart 6.1 requires, with certain limited exceptions, that “contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts.” The basis for this FAR requirement is the Competition in Contracting Act (CICA) of 1984. Although CICA only applies to the “Executive branch,” through LCR 2110 and its policy to follow the FAR the Library has embraced the principles of CICA to seek and promote competition.

FAR Subpart 6.1 imposes several conditions on agencies’ ability to rely on the exceptions permitting other than full and open competition. The most important of these conditions is the requirement that contracting officials justify and obtain approval for their use of other than competitive procedures. See FAR 6.302. Another condition specifies that poor agency planning cannot give rise to unusual and compelling urgency. See FAR 6.301(c).

Obtaining full and open competition when acquiring goods and services increases the government’s buying power, as competition can drive down costs and potentially heighten performance, innovation and overall value. There are several methods to promote and provide for full and open competition in the acquisition process, to include:

- Requirements Development—To promote effective competition, sufficient information should be provided in the statement of work and sufficient time should be provided for response. The contracting officer must ensure that commercial items are acquired to the maximum extent practicable, statements of work are not unduly restrictive, and specifications are not unnecessarily detailed;
- Performance Based Acquisition—The use of performance-based acquisitions will encourage meaningful competition by allowing vendors to offer more innovative solutions to meet the government’s performance needs;
- Outreach and Market Research—Market research and outreach activities (e.g., request for information or an industry day);
- Acquisition Planning—Effective acquisition planning highlights potential sources therein improving competition and promoting the development of new sources offering new technologies; and
- Procurement Notices—FAR Part 5.2 pre-solicitation notices promote competition by ensuring would-be offerors have ample notice of proposed agency procurement actions and adequate time to prepare their offers.

A sole source justification is required in accordance with FAR Part 6 for actions above the Simplified Acquisition Threshold (SAT). For acquisitions valued at or under the SAT but in excess of the micro-purchase threshold a sole source justification is required in accordance with FAR 13.106. For sole source orders under GSA FSS exceeding the SAT,

contracting officers must include the content specified in FAR 8.405-6 to prepare the J&A.

Recommendations

1. Conduct intensive training for all in the acquisition chain regarding limits on sole source contracting, developing proper justifications, and emphasizing the benefits of competition.
2. Create a method to track all sole source procurements and develop a plan to target a certain percentage of those procurements for conversion to a competitive track.
3. Develop directives on appropriate use of sole source contracting and FAR synopsis requirements.
4. Implement a set of controls to ensure higher-level approval (i.e., Chief of Contracting) at the acquisition planning stage is obtained for all sole source procurements above the micro-purchase threshold.
5. Ensure that performance plans contain performance standards related to obtaining competition and that staff are rated accordingly.
6. Develop a competition advocate program so that opportunities for competition are not missed.

Management Response

1. Ongoing. FAC-COR Level II certification training curriculum rolled out January 2012 included emphasis on the benefits of competition and requirements of the acquisition function. Level I and III certification training is open for registration.
2. Partial Agreement. OCM currently tracks competitive procurements versus sole source procurements as part of its performance metrics. Management does not agree that target percentages for conversion should be established. Instead, working with the Competition Advocate, OCM will partner with service units on those acquisitions that have been traditionally sole sourced to migrate them to competitive to the maximum extent appropriate.
3. Agree. Synopsis requirements are contained in COI 1004.3. These requirements will be reinforced in internal OCM training sessions.
4. Agree. This recommendation will be incorporated in policy being drafted concerning the Competition Advocate roles, responsibilities and process.
5. Complete. The performance plans implemented in November 2011 already require accountability to the prescribed regulations that determine whether an action should be competitive.
6. Agree. OCM has already begun discussions with stakeholders on implementing best practices for a competition advocate program.

Jefferson Response to Management:

Management partially disagrees with recommendation 2 in that it does not agree that target percentages for conversion should be established. The aim of this recommendation is to increase the number of competitively awarded procurements in OC. Working with the Competition Advocate and partnering with service units to migrate traditionally sole sourced procurements to a competitive track, to the extent appropriate, would also accomplish that objective.

D. Independent Government Cost Estimates are Inadequate

Our review found that the IGCEs were either absent from the contract file or insufficient to effectuate price analysis. Often the IGCE simply stated, "The COR has anticipated the cost to be \$X based on the COR's experience with the cost and knowledge of the vendor's pricing." In some cases, it appears that the IGCE was based solely on the vendor's quote. The service unit has the latitude to conduct market research from vendors. The problem is that when only one vendor is "researched" it provides a very biased view.



FAR 4.803 requires the contract file to contain the government estimate of contract price. Further, FAR 15, 404-1(a) requires contracting officers to ensure that the final contract price is fair and reasonable for all acquisitions through cost analysis. This implies a corresponding cost estimate for all acquisitions. The IGCE is the government's estimate of the resources and their projected costs that a contractor would incur in the performance of a contract. The purpose of the IGCE is often cited as threefold:

- To serve as the basis for reserving funds for the contract as part of acquisition planning;
- To serve as a basis for comparing costs or prices proposed by offerors; and
- To serve as an objective basis for determining price reasonableness in cases in which one bidder or offeror responds to a solicitation.

There should be sufficient information (rationale and assumptions) to allow for the explanation of differences between the IGCE and an offered price (general and/or specific). IGCEs should:

- Provide calculations;

- Provide narrative; and
- Provide source of data/numbers used:
 - Estimator’s assumptions and rationale;
 - Should match Section B of the RFP/IFB;
 - Prices by CLIN;
 - Prices by program period;
 - Reflect and cost-in the tasks/requirements stated in the Scope of Work;
 - Performance Work Statement (PWS).

Neither the OC’s Alert Handbook nor COI manual contains guidance on preparing IGCEs. Failure to develop and use the IGCE effectively misses opportunities to challenge and reduce prices paid by the Library. Further, without the use of the IGCE it may not be possible to perform an effective price analysis and the Library may very well be paying a higher or unreasonable price for the supply or service being purchased. This is particularly true when the Library has procured on a sole source basis or, in a competitive environment but when only one quote was received. When there is one quote, it may be considered fair and reasonable based upon a comparison with the IGCE. However, if the IGCE is nothing more than the vendor’s quote or otherwise inadequate, there is nothing to gauge the price reasonableness of the offered quote. This deficiency likely evolved from insufficient training, lack of clear policy and templates, and the failure of management to emphasize and enforce the critical role of the IGCE (and all contract documentation).

Recommendations

1. Establish a control process to prevent inadequate IGCEs from being used.
2. Develop clear guidance and IGCE templates for customers.

Management Response

1. Agree. OCM will implement a two pronged approach to establishing a control process by 1) facilitating customer knowledge of how to prepare an adequate IGCE, and 2) provide validation for sufficiency by a contracting officer during the planning phase.
2. Agree. ICGE training will be added to supplement that which is already included in the FAC-COR training.

E. Price Reasonableness Analysis Insufficient and/or Not Documented

The contracting officer’s rationale for finding prices to be “fair and reasonable” is often poorly documented in the contract files. The majority of contract files reviewed assert the contracting officer has determined the price fair and reasonable and cites reference to the IGCE, previous prices paid, or results of competition without any support or reference to the details or location of those supporting details. Although the file must clearly document the analysis and rationale behind the fair and reasonable price

decision, most files reviewed provide little documentation to support the asserted conclusion.

Incorrect Fair and Reasonable Price Determinations	
Contract No.	Comments
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

In the case of the many larger contracts reviewed, the information, analysis and documentation contained in the file were generally not sufficient to persuade a reviewer that the contracting officer had fulfilled his or her duty to determine the price as fair and reasonable, as required before award.

A few examples include:

Insufficient Evidence	
Contract No.	Comments
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Further, with the SAT transactions in which only one response was received, the contracting officer would often check the block that the price was fair and reasonable based on the IGCE and/or market research; yet there was no documentation of this in the file.

The requirement to document the contracting officer's determination that the price is fair and reasonable applies to all methods of procurement. FAR 15.406-3 for negotiated procurements requires the PCO document the source and type of data if using price analysis and to include such documentation in the contract file. FAR 15.404,⁷ "Proposal Analysis", in part, offers:

- (a) General. The objective of proposal analysis is to ensure that the final agreed to price is fair and reasonable.
 - (1) The contracting officer is responsible for evaluating the reasonableness of the offered prices. The analytical techniques and procedures described in this section may be used singly or in combination with others, to ensure that the final price is fair and reasonable..."
- (b) Price analysis...
 - (2) ...Examples of such techniques include, but are not limited to, the following:
 - (i) Comparison of proposed prices received...;
 - (ii) Comparison of proposed prices and previous Government and commercial contract prices...;
 - (iv) Comparison with competitive published price lists...;
 - (v) Comparison with independent Government cost estimates;
 - (vi) Comparison with prices obtained through market research;

For Simplified Acquisitions, FAR 13.106-3(a)(2) states: "If only one response is received, include a statement of price reasonableness in the contract file. The contracting officer may base the statement on—

- (i) Market research;
- (ii) Comparison of the proposed price with prices found reasonable on previous purchases;

⁷ FAR 15.404 is paraphrased.

- (iii) Current price lists, catalogs, or advertisements. However, inclusion of a price in a price list, catalog, or advertisement does not, in and of itself, establish fairness and reasonableness of the price;
- (iv) A comparison with similar items in a related industry;
- (v) The contracting officer's personal knowledge of the item being purchased;
- (vi) Comparison to an independent Government estimate; or
- (vii) Any other reasonable basis.

The purpose of the contract record is to provide a strong audit trail regarding the manner in which the Library competently spends public funds according to established regulations and guidelines. Many of the Library contracts reviewed do not provide sufficient documentation to provide this necessary trail. In government contracting one of the key tenets is that awards will be made at prices that are deemed to be fair and reasonable. Without the proper price analysis, it is not possible to determine if the price quoted or proposed is fair and reasonable. If the file does not contain the documentation to show that the proper price analysis was accomplished, any reviewer would have difficulty ascertaining that a fair and reasonable price was established in the contract. As a result, the Library may be paying unreasonable prices for supplies and services.

We attribute the lack of insufficient price reasonable analysis to the lack of training in pricing techniques and the standards for documentation of what constitutes a fair and reasonable price. The CRB review process is not identifying this weakness or serving as a part of the solution. This should be addressed through increased training and constructive feedback.

Recommendations

1. Provide training for all in the acquisition chain regarding the preparation of IGCEs and techniques for making fair and reasonableness judgments.
2. Ensure that providing fair and reasonable cost estimates/price analysis is included in performance plans for contracting officers and considered during performance review.

Management Response

1. Ongoing. An ICGE course, that is FAR compliant, has been identified and will be added to the COR curriculum. The first class is planned for Q3.
2. Completed. Proficiency in the solicitation, negotiation and award process is included in the November 2011 annual performance program requirements.

F. Failure to Prepare Determination and Findings for Labor Hour Contracts

Our review found that that contracting officers are not executing a determination and findings in accordance with FAR 16.601(d) when using a labor hour contract. In some contract files the determination and findings (D&F) was not contained in the contract file. [REDACTED]

[REDACTED] When using a labor hour contract, the contracting officer must execute a D&F that no other contract type is suitable (FAR 16.601(d)).

The D&F requirement is to help ensure that a labor hour contract type is used only when no other contract type is suitable. It also instills discipline in the determination of contract type with a view toward managing the risk to the government. We attribute the contract specialist's failure to prepare D&Fs for labor hour contracts to their lack of understanding of the FAR requirement.

Recommendations

1. Provide training on proper use and applicability of labor hour contracts and the requirement to prepare a D&F.
2. Develop a D&F template for contracting officers.

Management Response

1. Ongoing. Training on the proper use of labor hour contracts and the required documentation will be provided in-house.
2. Completed. OCM has implemented a template for contracting officers.

G. The Policy and Use of Non-Personal Services from Individual Contractors LCR 2111 Should Be Examined

Some of the services currently being procured under LCR 2111 should be re-examined for procurement under LCR 2110. We reviewed seven expert consultant agreements. While some of the services clearly appeared to be of the type requiring an independent contractor with the requisite expertise unique to the Library to render technical and professional assistance, other services seemed no different than the type of services that are procured under LCR 2110. For instance,

[REDACTED]

Further, LCR 2111 states under Section 5.B, “The Contracting Officer is responsible for performing any negotiation of the contract. The potential contractor shall submit a written proposal, which shall include all costs associated with the project. The Contracting Officer may only accept such costs if they are fair and reasonable to the Library. Further cost justification may be requested.” Like many of the contract files reviewed under the authority of LCR 2110, the determination that the costs are fair and reasonable required by LCR 2111 was largely absent. LCR 2111 does not prescribe a specific method for performing the cost analysis, but the contracting officer has all of the methods described in FAR available for use. To thoroughly confirm that the proposed costs or prices are fair and reasonable in these labor hours contracts, the contracting officer must analyze the proposed prices and number of hours proposed. In all contract files examined that used this procurement authority, no price or cost analysis was performed. Thus, the requirement that the contracting officer only accept costs if they are fair and reasonable was not satisfied.

While the FAR recognizes price/cost analysis by comparing the proposal to the IGCE, in many of the files reviewed, it was clear that the IGCE was not an independently derived estimate. In all seven contracts reviewed, there was no evidence of any independent analysis done to justify the government estimate used on the requisition form. Merely comparing the contractor’s proposal to the government estimate in these cases is not sufficient to determine fair and reasonable pricing.

Under the authority of LCR 2110 it is the policy of the Library to follow the FAR, while under the authority of LCR 2111 it is not. Thus, the safeguards normally in place to ensure that the government pays a fair and reasonable price for services received and that there is integrity and fairness to the process is not in place. All the services covered by the FAR are either non-personal or personal. The latter requires statutory authorization because an employer-employee relationship is created. Many of the services procured under the authority of LCR 2111 could perhaps be procured just as readily using the authority of LCR 2110.

LCR 2111 states the Library’s policy and procedures for the procurement of individual independent contractors to render technical and professional assistance to the Library on a non-personal services basis. The reason for LCR 2111 is set forth in Section 3: Policy; as follows:

1. It is the policy of the Library to procure needed technical and professional services and products that must be performed and/or created by the contractor in person. This regulation governs the procurement of such services and products from all individual non-personal services contractors irrespective of the source of funds involved. This regulation governs such procurements regardless of the business structure that the individual contractor may have chosen to provide his/her services. Thus, for example, this regulation governs contracts with individuals who have incorporated as sole-

proprietorships, and individuals who will use a third party (such as a university) as a pay agent. Formal written contracts are required in all cases.

2. The Library has not adopted the Federal Acquisition Regulation (FAR) for procurements under this regulation. Formal competitive procedures such as those specified in the FAR need not be followed when the services are required to be performed by the contractor in person and are of a professional or technical nature. Pursuant to 41 U.S.C. § 5, public advertisement of such procurement actions is not required.

3. It is the policy of the Library to comply with the FAR policy not to award a contract to a current Federal Government employee. The Librarian, or his designee not below the level of Chief of the Contracting Office, may authorize an exception to this policy, but only if there is a most compelling reason to do so, such as when the Library's needs cannot reasonably be otherwise met. This policy is intended to avoid any conflict of interest that might arise between an employee's personal interests and his Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees.

Recommendations

1. Develop directives that clearly set forth the policy and constraints for using LCR 2111.
2. Ensure that the contracting officer and management officials approving contracts on behalf of the Library pay special attention to all contracts that fall under LCR 2111 when they are conducting their reviews.

Management Response

1. Agree. OGE is working on revisions to LCR 2111 and its accompanying form (LW3/63) and will coordinate with the Office of Contracts regarding the revisions. Once the LCR is approved for implementation, OCM will issue guidance that clearly sets forth the policy and constraints.
2. Complete. OCM has already implemented this process.

H. Mischaracterization of Labor Hour Contracts as Fixed Price

While contracts were labeled as firm fixed price, the deliverable was often for a specific number of hours. Many of the sampled contracts were labeled fixed price although the contracts were structured as a labor hour contract. For example,

[REDACTED]

A firm fixed price contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. A firm fixed price contract is suitable for acquiring supplies or services on the basis of reasonably definite functional or detailed specifications.

Contracts without definite deliverables or specifications where the only requirement is that the contractor works a certain number of hours do not meet the definition of firm fixed price. The mischaracterization of contracts leads to many problems. From the outset, the appropriate approvals and documentation needed to enter into a labor hour contract are not obtained since the contract is labeled fixed price. The correct contract clauses that give the government the rights and privileges it needs to manage a labor hour contract are not included in the contract document. During performance of the contract, the necessary government controls that would normally be used to manage a labor hour contract may not be in place.

We attribute the mischaracterization of labor hour contracts as fixed priced contracts to OC's failure to require clearly defined statements of work, deliverables, and expected outcomes and understanding of types of contracts.

Recommendations

1. Ensure all staff is trained on the different procurement vehicles and contract types available and on their appropriate use.
2. Utilize performance-based acquisition methodologies as a method to promote thinking in terms of outcomes and deliverables.

Management Response

1. Completed. All staff are trained and experienced in the types of contracts required for a specific contract award. This includes the appropriate use of labor hour contracts.
2. Agree. This training is part of the required training curriculum identified for Office of Contracts staff. In considering various possible approaches, OCM will work with customers to promote thinking in terms of outcomes and deliverables.

I. Contract Options Being Used Incorrectly

The inclusion and exercise of options on Library contracts are not in conformance with FAR requirements. Incorrect use and exercise of options was pervasive in the sampled contract files reviewed.

[REDACTED]

We also found discussions regarding the inclusion of options in the basic contract were lacking in many of the contract files reviewed and when exercising an option, many of the sampled files either neglected to address the elements of FAR 17.207 or addressed them in a superficial manner.

Contract Files Missing Basic Components	
Contract No.	Comments
[REDACTED]	[REDACTED]

The files also lacked evidence that written notification of the intent to exercise the option in accordance with FAR 17.207(a) was provided. See, for example, Contract No.

[REDACTED]

The use and control of options is determined by FAR Part 17.2 which requires a formal written (and supported) determination prior to both (1) the inclusion in a contract and (2) the subsequent exercise of the option for additional supplies or services. This is required to assure such shortcuts (options) are “in the Government’s interests”, (e.g., there are foreseeable requirements but they are not known at this time, and that the

option is not used improperly to avoid the publication and competition requirements imposed by the Competition in Contacting Act).

The contracting officer is responsible for the completeness and accuracy of the solicitation/contract documentation that is required under FAR 17.205. Specifically, FAR 17.205, Documentation, states, in part:

(a) The contracting officer shall justify in writing the quantities or the term under option, the notification period for exercising the option, and any limitation on option price under 17.203(g); and shall include the justification document in the contract file.

Further, FAR 17.207, Exercise of Options, states the following as to the subsequent exercise of an option:

(f) Before exercising the option, the contracting officer shall make a written determination for the contract file that exercise is in accordance with the terms of the option clause, this section and Part 6.

The use of an unsupported option is a violation of the FAR unless the supplies or services were anticipated and included in the Justification and Approval process under FAR Part 6 for the basic contract. We attribute the inappropriate inclusion and/or exercise of options on LOC contracts to the contract specialist's lack of knowledge and failure to understand the level of documentation that FAR Part 17 requires when using options.

Recommendations

1. Provide training for all in the acquisition chain regarding limits on the use of options and the level of documentation required when they are included or exercised.
2. Ensure that the contracting officer and management carefully review the use and exercise of options.

Management Response

1. Agree. This will be included in outreach and internal training forums.
2. Agree. The quality assurance program will include review of the use and exercise of options.

J. Continuing Challenges with the Momentum Contract Writing System

The Momentum Acquisitions Contract Writing Module is not currently an effective tool for the LOC contracting officer. Momentum is the Library's financial and procurement system of record. Momentum Acquisitions is a fully automated contract writing system and maintains compliance with the FAR and any periodically released Federal Acquisitions Circular.

At present, contracting specialists are not consistently able to create a complete and internally consistent contract or modification within Momentum. The findings from the review team appear to be identical with those found in the 2008 OIG Report. Contracting specialists interviewed copy terms and conditions and FAR and LOC clauses from other documents and past them into Momentum instead of using the clause logic feature of Momentum. The clause logic feature adds clauses to the contract based upon certain characteristics of the contract that the person inputting the contract selects.

One strong reason for not using Momentum voiced by several contracting specialists is that the clause logic often returns a massive number of clauses, including many that are not appropriate for the contract. The only way to then remove the clauses is to go through one by one, which is very time consuming. Also, the format for the clauses inserted by the feature is different. The clauses appear individually, instead of in a table, and add many pages to the contracts. The general sentiment is that clause logic makes things more difficult than manually adding in clauses from a word document. It proves less accurate and takes more time. The Library is seriously hampered in its ability to effectively manage the complete acquisition lifecycle, from initial planning and requisitioning through to award and closeout. The present configuration of Momentum Acquisitions is making the contracting specialists job more difficult and labor intensive. We attribute this condition to the acquisition module not being configured correctly or users have not received adequate or complete training.

Recommendations

1. Ensure Momentum is properly configured to meet contracting specialists' needs.
2. Modify Momentum Acquisitions to create all of the different types of contract documents used by LOC.
3. Conduct spot check reviews that solicitations are being prepared in Momentum.
4. Develop a contracting specialist performance standard: "Creates and documents all required actions in Momentum."
5. Provide necessary training on the proper use of Momentum Acquisitions to appropriate LOC users.
6. Track "Contracting Specialist Use of Momentum" as a performance metric.

Management Response

1. Agree. While OCM is a primary user of Momentum, OCM is not the system owner and cannot ensure its proper configuration. However, OCM is regularly engaged with the system owner to identify contracting specialist's needs, requirements and challenges.
2. Agree. While OCM is a primary user of Momentum, OCM is not the system owner and cannot ensure its proper configuration. However, OCM is regularly engaged

with the system owner to identify contracting specialist's needs, requirements and challenges.

3. Disagree. All solicitations can only be created in Momentum.
4. Disagree. There is no way to identify a performance standard as all contract work can only be done in Momentum.
5. Disagree. While OCM is a primary user of Momentum, the system owner has the responsibility for providing training and answering hotline questions about use of Momentum. OGM does provide a forum, via its monthly Contracts Working Group meetings to identify and elevate Momentum challenges to the system owner's representative for discussion and resolution.
6. Disagree. As all contracts are created in Momentum and only in Momentum, tracking this metric would not add value.

Jefferson Response to Management

Staff interviewed stated that they copy terms and conditions and FAR and LOC clauses from other documents and paste them into Momentum instead of using the clause logic. Moreover, while the system owner may not be OC, OC is the primary user of the Contracting Writing Tool component of Momentum. OC has been hampered for some time now by Momentum's failure to meet OC's needs. A concerted effort by all parties to get to the bottom of Momentum's deficiencies will be beneficial to the acquisition function.

Summary of Recommendations

We have identified 32 recommendations for improving and correcting deficiencies described under Finding II, Technical Issues. Our recommendations center, in part, on improving acquisition planning, ensuring the appropriate acquisition method and contract type is used, as well as, improving competition at the Library. In addition, we recommend that senior management address the deficiencies in the Momentum acquisition module.

III. Customers (Planning, Knowledge, Responsibilities, and Service)

Our review identified significant problems in the communication and cooperation between OC and its customers. These problems have a negative effect on the acquisition planning process, the resolution of conflicts, and on the administration and management of contracts. Furthermore, institutional knowledge is neither effectively managed nor best practices shared to help contract specialists and OC customers obtain information about the Library's acquisition policies, procedures, laws and regulations.

A. Additional Efforts to Promote Communication with Customers are Needed

There is poor communication and cooperation between OC and its customers, which is likely having a negative effect on acquisition planning, the resolution of conflicts, and the effective monitoring of contractor performance. Processes should be in place to continuously gather stakeholder feedback regarding the effectiveness of the acquisition process and identify areas needing improvement. Some of the service units within the Library stated that they were told by staff within the contracts office not to contact the office. Some contracting specialists interviewed admitted to restricting contact—stating that customers were calling them every day.

Poor communication and cooperation between the customer and the contracting specialist negatively affects acquisition planning, the resolution of conflicts, and effective monitoring of contractor performance. We attribute the poor communication and cooperation to contract specialists not being held accountable for providing up to date status information to their customers.

To facilitate a more communicative environment, the Chief of OC is developing an OCGM Requisition Status Tracking Report to better apprise customers of the status of their requisitions. However, it appears to be in an Excel spreadsheet form that will perhaps be labor-intensive to maintain and have only limited interactive operability. The Library should consider developing a more interactive tool to improve the dissemination of acquisition information among all the offices. The tool should be designed to enable customers to quickly and easily track the progress of their requisitions. It could be located on a SharePoint site and included the following functionality:

- Shows status of acquisition, (e.g., where it is in the procurement process);
- Provides search capability, (e.g., search by requisition number);
- Can create customized view for specific information or for customers, (e.g., customer wants to view only its requisitions that are at the acquisition office);
- Contacts are listed with a direct hyperlink to the point-of-contact's email in outlook; and
- Provides data on when the information was last modified by name and date.

Recommendations

1. Develop a customer survey tool in order to solicit customer feedback.
2. Revise performance plans to emphasize sound, proactive communication with customers.
3. The Chief of Contracts should develop and implement a plan to improve OC's communication and relationships with customers.
4. Develop an automated tool to enable customers to quickly and easily track progress of their requisitions and to further promote effective communication.

Management Response

1. Completed. A customer survey has been developed and OCM is coordinating its implementation.
2. Completed. Performance plans include accountability for striving to meet customer requirements.
3. Ongoing. OCM has implemented pathways to improve communication and relationships with customers through numerous initiatives: OCM has scheduled regular meetings with customers, the Contracts Working Group meets monthly, an email account and hotline number was established in FY11 to field customer inquiries, OSO chartered an Intranet site working group to upgrade the OCM website to include guidance, FAQs, templates and forms.
4. Agree. Included in management assessment task to review current capability for real time status update on requisitions.

B. Customers Lack Understanding of their Roles and Responsibilities Related to Planning and Executing their Acquisitions

The Library service units generally lack an awareness of their acquisition roles and/or the willingness to define requirements, develop statements of work and independent government cost estimates, and conduct market research. We attribute this condition to the customers not being sufficiently trained and/or required to perform their acquisition-related responsibilities. The failure of customers to proficiently perform their acquisition-related responsibilities likely causes delays in processing acquisition actions and contributes to the overuse of sole source procurements.

A good acquisition package from a customer should include:

- Individual Acquisition Plan;
- Statement of Work;
- Independent Government Cost Estimate; and
- Market Research Results.

As further detailed below, the acquisition package received by the customer is most often insufficient. The SOWs are used year-to-year without efforts to revise/improve them. There is no evidence of efforts to develop performance standards. The previous Director of the OCGM developed an Alert Handbook in 2008, which appears to be directed toward educating customers on their roles and responsibilities. However, the Handbook is lengthy and found only on the OC's intranet site.

An acquisition function that is successful at effectively and efficiently meeting the agency's missions generally reflects a consistent, cross-functional, and multidisciplinary approach. This approach requires engagement by all relevant stakeholders, including representatives from program offices, contracting officials, financial managers, human capital officials, information technology officials, and other appropriate participants. An integrated approach helps agencies better define their needs and identify, select, and manage providers of goods and services.

Look for:

- Each stakeholder in the acquisition process has clearly defined roles and responsibilities.
- There is a shared understanding of each participant's role in acquisition activities.⁸

Recommendations

1. Restructure the Alert Handbook into a series of user-friendly, PowerPoint customer service training packages directed at two levels:
 - a. Tier I-Executive leadership council for higher level executives-1 hour
 - b. Tier II-Service Units who are responsible for requesting specific contract actions-3 hours
2. Provide outreach training to those customers needing a better understanding of their acquisition-related duties and responsibilities.
3. Require Library senior leadership to enforce customer training/performance of acquisition-related roles.
4. Develop a Standard Operating Procedure Procurement Process SOP so that customers understand that a good procurement package includes a SOW with the salient characteristics of the item or services to be purchased, market research, IGCE, and the evaluation factors used in the evaluation process. The SOP should include a Procurement Package Checklist.

⁸ See GAO report *Framework for Assessing the Acquisition Function at Federal Agencies*, GAO-05-218G, September 2005, page 6.

Management Response

1. Agree. To promote understanding of their roles and responsibilities, and of related procurement policies pre- and post-award, OCM will create 1) a Desk Guide for executive leadership and 2) Standard Operating Procedures for service unit procurement staff.
2. Ongoing. FAC-COR Level 2 certification training was rolled out January 2012. Level 1 and Level 3 training is open for registration.
3. Completed. OCM guidance was distributed to Senior Level management in January 2012 establishing new mandatory training and requirements for COR certification. Service Units are required to validate their list of CORs.
4. Agree. To promote understanding of their roles and responsibilities, and of related procurement policies pre- and post-award, OCM will create 1) a Desk Guide for executive leadership and 2) Standard Operating Procedures for service unit procurement staff.

C. CORs Lack the Requisite Training to Perform their Responsibilities

Program customers are not well trained to perform their responsibilities as Contracting Officer's Representatives (CORs). Program customers interviewed stated that they received some training several years ago, but have not received any refresher training to perform their responsibilities as CORs. Most of the files contain a COR Letter in the contract file—in some cases it is signed by the COR and in many cases it is not. Regardless, the real issue is that contracting specialists are not validating that CORs have the requisite training prior to appointment.

It is unclear which office tracks COR certification—it is not the OC. Apparently, Momentum lists over 700 Library staff as CORs. Being listed in Momentum, however, simply indicates that the individual has been a COR, it does not mean that the individual has the requisite credentials. It is the Chief of Contracts intention to begin scrubbing the list and require that CORs be trained. The Chief of OC plans to provide a three-year grace period for CORs to obtain training. As a result, CORs lack the requisite knowledge and training to perform their acquisition-related responsibilities. We attribute this deficiency to the lack of accountability to ensure CORs are properly trained and no process for recording and monitoring COR training.

The Office of Federal Procurement Policy (OFPP) issued a memorandum on September 6, 2011, which revises and replaces OFPP's Federal Acquisition Certification for CORs, originally issued in November 2007. This memorandum revises the competency requirements for CORs to establish a risk-based, three-tiered certification program for civilian agencies that better reflects the important role of the COR. The new FAC-COR requirements became effective January 1, 2012, and agencies should develop guidance to ensure their CORs are appropriately certified.

The FAC-COR is only one component of strengthening the COR function. Equally important is selecting the right individual to be a COR, ensuring that the COR understands the importance of his/her role, providing the individual adequate time and resources to perform the COR function, and building a culture of effective collaboration and communication between the contracting officer and the COR. Initial training for new CORs must include, at a minimum, a course covering COR roles and responsibilities as well as fundamental contract rules and regulations. In addition, it is strongly recommended that this training be provided in a classroom setting. Where the previous FAC-COR had just one level of certification for all CORs, the new FAC-COR has three levels of certification with varying requirements for training, experience, and continuous learning, depending on the types of contracts being managed. Generally, and in accordance with agency guidance, CORs should be developed and assigned as follows:

1. Level I – 8 hours of training and no experience required. This level of COR is generally appropriate for low-risk contract vehicles, such as supply contracts and orders.
2. Level II – 40 hours of training and one (1) year of previous COR experience required. These CORs may be called upon to perform general project management activities and should be trained accordingly. This level of COR is generally appropriate for contract vehicles of moderate to high complexity, including both supply and service contracts.
3. Level III – 60 hours of training and two (2) years of previous COR experience required on contracts of moderate to high complexity that require significant acquisition investment. Level III CORs are the most experienced CORs within an agency and should be assigned to the most complex and mission critical contracts within the agency. These CORs are often called upon to perform significant program management activities and should be trained accordingly.

Recommendations

1. Rapidly develop a COR training program and institute a process within the Office of Contracts Management to record and monitor COR training.
2. Appoint CORs only after they have taken the requisite training.
3. Track “Percentage of COR Certifications” as a performance metric.

Management Response

1. Completed. FAC-COR Level 2 certification training was rolled out January 2012. Level 1 and Level 3 training is open for registration. A system is in place to record and monitor COR training.
2. Agree. CORs will be assigned based on the latest OFPP memo on FAC-COR certification requirements.
3. Completed. Training of certification was implemented in FY12.

D. Managing Institutional Knowledge and Identifying Sharing Best Practices is Lacking

Institutional knowledge is neither effectively managed nor best practices shared to help contract specialists and OC customers obtain information about the Library's acquisition policies, procedures, laws and regulations. We found the OC intranet lacking in current, user-friendly content that could provide guidance and instructions to help staff and customers perform their responsibilities. Currently, acquisition material is difficult to locate—both for the contracting specialist as well as for the CORs and program customers. The OC should make available the Library's acquisition policies, procedures, laws and regulations on their intranet site.

Recommendation

1. Develop a Knowledge Center (KC) in a SharePoint environment. This KC could be the homepage for the acquisition workforce, providing them with a single point of entry to websites, electronic tools, reporting, templates, policy, people, organizations, wikis, blogs, and discussion groups relevant to their mission. The site should have the ability to store a variety of documents, index those documents, and provide a seamless easy way to search for those documents.

Management Response

Agree. OSO is reviewing the capabilities of existing LC systems that could possibly be adapted, and will consider those and other options to share knowledge and best practices.

Summary of Recommendations

We identified 12 recommendations to address the problems between OC and its customers we described under Finding III, *Customers (Planning, Knowledge, Responsibilities, and Service)*. The recommendations center, in part, on improving the communication deficiencies between OC and its customers, as well as improving their customer's understanding of their role and responsibilities in the administration and management of their contract. We also recommend that the Library maintain an institutional source of knowledge on OC's intranet to help contract specialists and OC customers obtain information about the Library's acquisition policies, procedures, laws, and regulations.

▶▶ ROOT CAUSE ANALYSIS

We analyzed each of our findings and identified causes that we concluded were central to the identified weakness. We have labeled those causes “root causes” since we believe they are central causal conditions creating the weakness. In some cases more than one root cause affected a finding. In all, we linked the following 10 primary root causes to all the identified findings. See Appendices B and C for tables summarizing the *Identification of Root Causes of the Findings* in the report and a *Consolidation of Root Causes*.

1. *Lack of Customer Training and Guidance*: The lack of customer training and guidance is leading to poor acquisition planning and poor and/or incomplete requisition packages, e.g., poorly defined requirements and SOWs, insufficient IGCEs, the absence of market research efforts—being submitted to the Office of Contracts. The failure of customers to proficiently perform their acquisition-related responsibilities likely causes delays in processing acquisition actions and contributes to the overuse of sole source procurements.

2. *Lack of Contracting Specialist Training*: The Library makes a poor showing of compliance with established regulations, policy and guidance. The contracting officer’s rationale for finding prices to be “fair and reasonable” is often poorly documented in the contract files. The inclusion and exercise of options on Library contracts are often not in conformance with FAR requirements. This is likely due to the contract staff being largely inexperienced. In order to operate effectively and in compliance with established regulations, policy and guidance, the Library must make a significant investment in training its contracting staff as well as providing solid mentoring. In addition, without this, staff turnover can be expected to remain high, which will perpetuate the service units’ loss of confidence in the contracting office’s ability to meet their acquisition needs.

3. *Inadequate Policy Guidance*: Contract policy guidance is outdated and/or not particularly helpful. The Library’s Contracts Operating Instructions Manual (COI) should be rewritten, and the current guidance that simply restates the FAR should be deleted and replaced with policy guidance that provides added direction of specific applicability to the Library.

4. *Insufficient Supervision*: All contract staff presently report to the Head of Contracts, who is the Supervisory GS-1102-14 contracting officer. He also carries an operational workload and is tasked with administrative matters by the Chief of Contracts. This is an unreasonable span of control and does not permit adequate time to provide sufficient supervision. This is particularly problematic as most staff are junior, relatively inexperienced and in need of significant supervision and mentoring.

5. *Acquisition Function Not Fully Defined*: The Director position is vacant and there is a lack of organizational dedicated support components that are normally assigned to an acquisition office. Although the Chief of Contracts is acting in the Director capacity, the failure to fill the top-level acquisition position sends a negative message about the role of

the acquisition function within the organization. The contracts office also needs a support component to ensure effective and efficient performance of critical functions that support the Office of Contracts.

6. Lack of Management Emphasis: Contract Management has not put a sufficiently rigorous review process in place to ensure that contracts are being executed in accordance with Library and FAR and policies. Moreover, management does not stress the importance of competition—over 53% of the contracts reviewed were awarded noncompetitively. Management does not track any performance metrics related to effective procurement and contract administration of the office.

7. Failure to Promote Communication: Poor communication and cooperation between the service units and the contracting specialist negatively affects acquisition planning, the resolution of conflicts, and effective monitoring of contractor performance. Moreover, the failure to communicate coupled with high staff turnover has resulted in a lack of confidence in the contracting office's ability to meet the service units' needs.

8. Momentum System Not Configured Correctly: The problems with Momentum were first identified in the 2008 OIG Report and remain an issue. There is no reason that Momentum cannot be configured so that contracting specialists could consistently create a complete and internally consistent contract or modification. Moreover, Momentum should not cause the contracting specialist more work, e.g., the clause logic currently returns a massive number of clauses, including many that are not appropriate for the contract. The only way to then remove the clauses is to go through one by one, which is very time consuming. The Library is seriously hampered in its ability to effectively manage the complete acquisition lifecycle, from initial planning and requisitioning through award and closeout.

9. No Accountability to Ensure CORs Are Properly Trained: While most of the files contain a COR Letter in the contract file (some signed by the COR but in many cases not signed), contracting specialists are not validating that CORs have the requisite training prior to appointment. It is unclear which office tracks COR certification—it is not the Office of Contracts. Apparently, Momentum lists over 700 Library staff as CORs. Being listed in Momentum, however, simply indicates that the individual has been a COR, it does not mean that the individual has the requisite credentials. CORs should only be appointed after they have taken the requisite training.

10. Failure to Promote Knowledge Sharing and Best Practices: Institutional knowledge is neither effectively managed nor shared via best practices. The Office of Contracts intranet is lacking in current, user-friendly content. Acquisition material is difficult to locate—both for the contracting specialist as well as for the COR and program customer. The Office would greatly benefit from the development of a KC in a SharePoint environment.

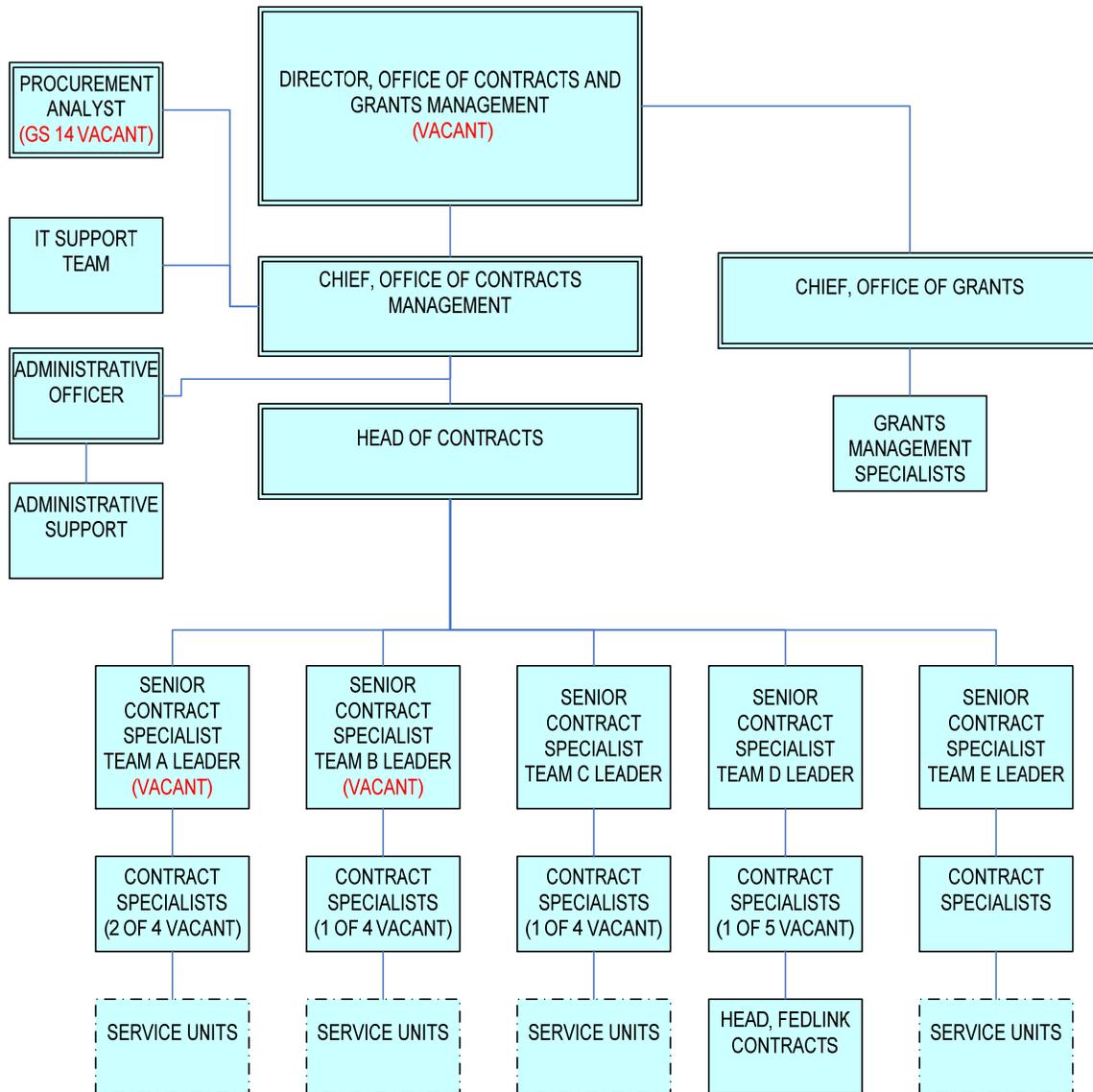
»» CONCLUSION

The issues we identified affecting the acquisition function and the related root causes are systemic in nature and have negatively affected the acquisition function over an extended period exposing the Library to high and unacceptable risk. To address these issues senior Library management should implement a strategic approach that is function-wide. Management focusing solely on OCGM will not alleviate the foundational weaknesses affecting the acquisition function. The rehabilitative process should include:

1. Written plan of action;
2. Milestones;
3. Project director and category project leaders;
4. Defined periodic progress evaluations; and
5. Semiannual progress reports to the Executive Committee.

A strategic approach requires senior management to commit both management and professional staff along with budgetary resources to rehabilitate the acquisition function. To develop a strong and healthy acquisition culture, the cooperation of all service and support units along with OCGM is vital. That includes active participation on the parts of the Executive Committee, HRS, OCFO, and ITS.

►► APPENDIX A: OCGM ORGANIZATIONAL CHART



►► APPENDIX B: IDENTIFICATION OF ROOT CAUSES OF THE FINDINGS

Identification of Root Causes of the Findings		
Finding	Rationale for Identification	Probable Cause(s)
Organizational Alignment and Vacancy	There are key vacancies within the Office of Contracts. Although the Chief of Contracts is acting in the Director capacity, the failure to fill the top-level acquisition position sends a negative message about the role of the acquisition function within the organization.	<ul style="list-style-type: none"> • Acquisition structure is not fully defined
Lack of Supervisory Structure	There is an insufficient supervisory structure within the contracting organization. One supervisory contracting specialist has an unreasonable span of control, creating an inability to provide review and mentoring.	<ul style="list-style-type: none"> • Acquisition structure is not fully defined
Need for a Fully Developed Acquisition Infrastructure	The organization has no acquisition infrastructure component, which is most likely contributing to poor outcomes within the organization.	<ul style="list-style-type: none"> • Acquisition structure is not fully defined
Key Performance Metrics are Not Being Tracked, e.g., Competition	There is no management tool in place to gauge and measure the overall performance and health of the contracting function—such as measuring the extent of competition (or lack thereof); the staff turnover rate; and training that is needed.	<ul style="list-style-type: none"> • Lack of management emphasis
Lack of Adequate Acquisition Planning	The organization does not engage in effective acquisition planning. The pressure to make awards quickly has likely hampered reviews and the office's ability to improve competition and/or develop new sources with technology offers.	<ul style="list-style-type: none"> • Failure to enforce acquisition planning • Lack of customer training
Customers Lack an Understanding Regarding their Roles and Responsibilities Related to Planning and Executing their Acquisitions	Customers are not sufficiently trained and/or required to perform their acquisition-related responsibilities.	<ul style="list-style-type: none"> • Lack of customer training • Lack of customer guidance • Lack of LOC senior leadership to enforce customer training/performance of acquisition-related roles

Independent Government Cost Estimates (IGCE) are Inadequate	IGCEs are absent from the contract file or insufficient to effectuate price analysis.	<ul style="list-style-type: none"> • Lack of customer training • Lack of customer guidance
Failure to Conduct Market Research	Evidence of market research and acquisition planning is missing from the contract files.	<ul style="list-style-type: none"> • Lack of customer training • Lack of customer guidance
Additional Efforts to Promote Communication With Customers Are Needed	There is poor communication and cooperation between the customer and the contracting specialist, which likely is negatively affecting acquisition planning, the resolution of conflicts, and the effective monitoring of contractor performance.	<ul style="list-style-type: none"> • Failure to promote communication
Lack of Effective Oversight to Achieve Desired Outcomes	The CRB oversight process is not catching significant deficiencies. There is no peer review or supervisory review on procurement actions under \$100,000.	<ul style="list-style-type: none"> • Inadequate policy guidance • Lack of management emphasis
Lack of Competition— Excessive Use of Sole Source Procurements	53% of the 129 contract files reviewed were awarded on a noncompetitive basis. Moreover, the Library relies on and overuses the provisions of FAR Part 6, in particular, 6.302-1, (Only one responsible source and no other supplies or services will satisfy agency requirements.) and 6.302-2, (Unusual and compelling urgency).	<ul style="list-style-type: none"> • Lack of management emphasis • Insufficient management oversight • Lack of training • Poor market research • Lack of acquisition planning • Inadequate policy guidance
Price Reasonableness Analysis Insufficient and/or Not Documented	The contracting officer’s rationale for finding prices to be “fair and reasonable” is often poorly documented in the contract files.	<ul style="list-style-type: none"> • Lack of training • Insufficient supervision • Inadequate policy guidance • Insufficient supervision
Contract Options Being Used Incorrectly	The inclusion and exercise of options on LOC contracts are not in conformance with FAR requirements.	<ul style="list-style-type: none"> • Lack of training • Inadequate policy guidance • Insufficient supervision
Failure to Prepare Determination and Findings (D&F) for Labor-Hour Contracts	Contracting officers are not executing a determination and findings in accordance with FAR 16.601(d) when using a labor-hour contract.	<ul style="list-style-type: none"> • Lack of training • Inadequate policy guidance • Insufficient supervision

Mischaracterization of Labor Hour Contracts as Fixed Price	While contracts were labeled as firm fixed price, the deliverable was often for a specific number of hours.	<ul style="list-style-type: none"> • Lack of training • Inadequate policy guidance • Insufficient supervision
The Policy and Use of Non-Personal Services from Individual Contractors Under LCR 2111 Should Be Examined	Some of the services currently being procured under LCR 2111 should be re-examined for procurement under LCR 2110.	<ul style="list-style-type: none"> • Lack of training • Inadequate policy guidance
Contracting Specialists have Insufficient Skills, Knowledge and Experience to Proficiently, Efficiently, and Effectively Perform Their Acquisition Responsibilities	Staff lack training and are inexperienced. The Office has suffered from large turnover rates and there are no solid training, mentoring and orientation efforts.	<ul style="list-style-type: none"> • Failure to adequately invest in staff training and development
CORs Lack the Requisite Training to Perform Their Responsibilities	Program customers are not well trained to perform their responsibilities as CORs.	<ul style="list-style-type: none"> • No accountability to ensure CORs are properly trained
Continuing Challenges with the Momentum Contract Writing System	The Momentum Acquisitions Contract Writing Module is not currently an effective tool for the LOC contracting officer.	<ul style="list-style-type: none"> • System not configured correctly • Lack of training
Managing Institutional Knowledge and Identifying Sharing Best Practices Is Lacking	Institutional knowledge is not effectively managed nor best practices shared.	<ul style="list-style-type: none"> • Failure to promote knowledge sharing and best practices

►► APPENDIX C: CONSOLIDATION OF ROOT CAUSES

Root Cause	Findings
Lack of customer training and guidance	<ul style="list-style-type: none"> • Customers Lack an Understanding Regarding their Roles and Responsibilities Related to Planning and Executing their Acquisitions • Lack of Adequate Acquisition Planning • Independent Government Cost Estimates (IGCE) are Inadequate • Failure to conduct market research • Lack of Competition—Excessive Use of Sole Source Procurements
Lack of contracting specialist training	<ul style="list-style-type: none"> • Contracting Specialists have Insufficient Skills, Knowledge and Experience to Proficiently, Efficiently, and Effectively Perform Their Acquisition Responsibilities • Lack of Competition—Excessive Use of Sole Source Procurements • Price Reasonableness Analysis Insufficient and/or Not Documented • Contract Options Being Used Incorrectly • Failure to Prepare Determination and Findings (D&F) for Labor-Hour Contracts • Mischaracterization of Labor Hour Contracts as Fixed Price • The Policy and Use of Non-Personal Services from Individual Contractors Under LCR 2111 Should Be Examined • Continuing Challenges with the Momentum Contract Writing System
Inadequate policy guidance	<ul style="list-style-type: none"> • Lack of Effective Oversight to Achieve Desired Outcomes • Lack of Competition—Excessive Use of Sole Source Procurements • Price Reasonableness Analysis Insufficient and/or Not Documented • Contract Options Being Used Incorrectly • Failure to Prepare Determination and Findings (D&F) for Labor-Hour Contracts • The Policy and Use of Non-Personal Services from Individual Contractors Under LCR 2111 Should Be Examined • Mischaracterization of Labor Hour Contracts as Fixed Price
Insufficient Supervision	<ul style="list-style-type: none"> • Price Reasonableness Analysis Insufficient and/or Not Documented • Contract Options Being Used Incorrectly • Failure to Prepare Determination and Findings (D&F) for Labor-Hour Contracts • Mischaracterization of Labor Hour Contracts as Fixed Price
Acquisition function not fully defined	<ul style="list-style-type: none"> • Organizational Alignment and Vacancy of Director • Lack of supervision • Need for a Fully Developed Acquisition Infrastructure
Lack of management emphasis	<ul style="list-style-type: none"> • Lack of Competition—Excessive Use of Sole Source Procurements • Lack of Effective Oversight to Achieve Desired Outcomes • Key Performance Metrics are Not Being Tracked, (e.g., Competition)
Failure to promote communication	<ul style="list-style-type: none"> • Additional Efforts to Promote Communication With Customers Are Needed
Momentum System not configured correctly	<ul style="list-style-type: none"> • Continuing Challenges with the Momentum Contract Writing System
No accountability to ensure CORs are properly trained	<ul style="list-style-type: none"> • CORs Lack the Requisite Training to Perform Their Responsibilities
Failure to promote knowledge sharing and best practices	<ul style="list-style-type: none"> • Managing Institutional Knowledge and Identifying Sharing Best Practices Is Lacking

▶▶ APPENDIX D: ACRONYMS USED IN THIS REPORT

AP	Acquisition Plan
ADP	Acquisition Planning Document
CO	Contracting Officer
CRB	Contract Review Board
CLIN	Contract Line Item Number
OC	Contracts Office/Office of Contracts
COI	Contracts Operating Instructions Manual
CICA	Competition in Contracting Act of 1984
COR	Contracting Officer's Representative
CCR	Central Contractor Registration
D&F	Determination and findings
FY	Fiscal year
FAR	Federal Acquisition Regulation
FAC-COR	Federal Acquisition Certification, Contracting Officer's Representatives
GS	General Schedule
GAO	Government Accountability Office's
GSA	General Services Administration
HRS	Human Resources Services
ITS	Information Technology Services
IGCE	Independent Government Cost Estimate
J&A	Justification and Approval
Jefferson	Jefferson Solutions
KC	Knowledge Center
LOC	Library of Congress
LCR	Library of Congress Regulation
OCFO	Office of the Chief Financial Officer
OFPP	The Office of Federal Procurement Policy
OGC	Office of General Counsel
OCGM	Office of Contracts and Grant Management
OIG	Office of the Inspector General
OSO	Library's Office of Support Operations
OMB	Office of Management and Budget
PALT	Procurement Administrative Lead Time
PCO	Procuring Contracting Officer
RFP	Request For Proposal
SAT	Simplified Acquisition Threshold
SOP	Standard Operating Procedure
SOW	Statement of Work
USC	United States Code

▶▶ APPENDIX E: JEFFERSON SOLUTIONS RESUMES

Allan V. Burman: Under Dr. Burman's leadership as the President of Jefferson Solutions, Jefferson has provided acquisition support to over 48 federal departments and agencies. Prior to joining The Jefferson Group, Dr. Burman had a lengthy career in the federal government, serving in policy positions in the Office of Management and Budget (OMB) and the Office of the Secretary of Defense. As the former Administrator for Federal Procurement Policy, he had the longest tenure of any Administrator, serving in the Executive Office of the President under Presidents Reagan, Bush, and Clinton. He has testified before Congress over forty times on management, acquisition and budget matters. In this Senate-confirmed, Executive Level III position, Dr. Burman authored the 1991 policy letter that established "performance-based contracting" and greater reliance, where appropriate, on fixed-price contracting, as the favored approach for contract reform. He also authored the 1992 policy letter that encouraged agencies to make greater use of past performance. Both of these documents reinforce the shift in Federal management practices from an emphasis on procedure to a focus on outcomes. He has also played a significant role in the development of recent legislation that seeks to achieve that same result.

Dr. Burman is a Fellow of the National Academy of Public Administration (NAPA), a Principal of the Council for Excellence in Government, a Director of the Procurement Round Table, a Fellow and Member of the Executive Advisory Council of the National Contract Management Association, and an Honorary Member of the National Defense Industrial Association. He is also an adjunct professor at the International Law Institute (ILI) and a member of ILI's Procurement Advisory Board as well as an adjunct professor at George Mason University. Dr. Burman has served on numerous panels to include the White House Acquisition Advisory Panel established by the Services Acquisition Reform Act legislation and co-chaired the performance-based acquisition subcommittee of the panel. In 2009, he received the Fed 100 award, recognizing outstanding contributions in improving federal information technology programs.

Karen R. O'Brien: Ms. O'Brien is a seasoned government contracts attorney and recognized expert on procurement law with over 24 years of experience in the field. She provides senior level acquisition expertise and support to her government clients. For the past six years, she has provided acquisition assistance to numerous agencies, to include Department of State (Bureaus of Consular Affairs, Diplomatic Security, Overseas Building Operations, African Affairs, and the Office of Export Control Cooperation), Department of Housing and Urban Development (HUD), Pension Benefit Guaranty Corporation, U.S. Postal Service, Forest Service, National Institutes of Health, and U.S. Department of Veterans Affairs (VA). She is also an author on key texts in the field of government contracting, most recently *The Government Contracts Reference Book* (3d ed. 2007) and *Competitive Negotiation: The Source Selection Process* (3d ed. CCH Publishing 2011).

Ms. O'Brien began her career as a procurement law attorney in the Army Judge Advocate General's Corps. While in the Army, Ms. O'Brien served as the legal advisor to the Principal Assistant Responsible for Contracting and the Head of Contracting Activity in Southwest Asia, where she assisted in the planning, development, and implementation of government contracts for the sustainment and redeployment of forces in Southwest Asia. She also served as a staff attorney for the DOD Advisory Panel on Streamlining and Codifying the Acquisition Process

(Section 800 Panel). This Panel reviewed all laws affecting DOD procurement. The recommendations served as the basis for the Federal Acquisition Streamlining Act of 1994 and the Clinger-Cohen Act of 1996. Prior to joining JCG, Ms. O'Brien was with the firm of McCarthy, Sweeney and Harkaway, P.C. where she practiced in the area of government contract law, including contract administration matters, assisting clients on obtaining multiple award schedules, claims, disputes and bid protests. Prior to that, Ms. O'Brien managed the Government Contracts publications program of the George Washington University Law School.

Craig E. Durkin. Mr. Durkin is Vice President of Jefferson Solutions and provides high-level expertise, advice and assistance to government clients on a wide-range of acquisition-related issues, including organizational optimization, performance-based acquisition and competitive sourcing. He is currently the project manager on a multi-year contract with VA to perform OMB Circular A-123 assessments of VA contracting offices. Each assessment employs the framework developed by the Government Accountability Office (GAO) consisting of the four interrelated "cornerstones": (1) organizational alignment and leadership, (2) policies and processes, (3) human capital and (4) information management and stewardship. Mr. Durkin began his career as a contract administrator with the Defense Supply Agency, and served in numerous operational, policy and management positions within the Office of Procurement and Contracts (OPC) at the Department of Housing and Urban Development (HUD). His last position at HUD was Director of the Office of Procurement and Contracts. He managed a staff of more than 130 personnel nationwide, awarded and administered all Departmental contracts (\$1.2 billion in FY 1999) and developed procurement policy on behalf of the Chief Procurement Officer. Earlier in his career at HUD OPC, he served as Director of the Policy and Evaluation Division and was responsible for preparing procurement regulations and handbooks for Department-wide use as well as internal operating instructions for contracting staff.

James A. Balinskas: Mr. Balinskas currently works with Source Selection Consulting, LLC., a small business focused on acquisition consultation. Mr. Balinskas had a long and extensive career at NASA holding many senior positions within the organization. From 1992 to 2010 he served as the Director Contract Management, Office of Procurement. There, he was responsible for developing, maintaining and disseminating procurement policy pertaining to contracts, grants, and cooperative agreements. He managed the NASA's FAR Supplement process and interaction with the FAR Council, FAR Teams and the Defense Acquisition Regulation Council. He resolved major contract management issues and served as the Agency Ombudsman for procurement issues. Mr. Balinskas assisted in developing acquisition strategies for major procurements and redefined process for cost/price analysis. Mr. Balinskas has a comprehensive record of success in U.S. government contracting and procurement. He is FAC-C Level III certified and has detailed knowledge of the Federal Acquisition Regulation and the regulatory process. He has a demonstrated capability in all phases of the acquisition cycle and types of procurements, and a successful track record of cost/price analysis and cost containment. He is a proactive problem solver with a proven record of offering clear-cut solutions to efficiently manage procurement operations. One of his significant accomplishments included the institution of internal financial controls and processes and procedures within the organization. Mr. Balinskas is a member of the National Contract Management Association and the Society of Cost Estimating and Analysis.

▶▶ APPENDIX C: JEFFERSON SOLUTIONS RESPONSE

Jefferson Solutions
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March 29, 2012

Subject: Jefferson Solutions Response to Library of Congress (LOC) Chief, Support Operations Memorandum Subj: Management Response to Draft Audit Report No. 2011-SO-106

Ref (a): Chief, Support Operations Memorandum dated March 23, 2012

In response to reference (a), the following comments are provided:

1. **Management Comment on CICA Reference:** Jefferson has revised the report accordingly to make clear that CICA only applies to the executive branch but that, pursuant to LCR 2110, Library policy is to follow the Federal Acquisition Regulation. FAR Subpart 6.1 requires, with certain limited exceptions, that "contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts." The basis for this FAR requirement is the Competition in Contracting Act (CICA) of 1984.
2. **Management Comment on Finding II.C.2:** Management partially disagrees with the recommendation in that it does not agree that target percentages for conversion should be established. The aim of this recommendation is to increase the number of competitively awarded procurements in OC. Working with the Competition Advocate and partnering with service units to migrate traditionally sole sourced procurements to a competitive track, to the extent appropriate, would also accomplish that objective.
3. **Management Comment on Finding II.J.3, 4, 5, and 6:** Management disagreed with four recommendations concerning what Jefferson perceives to be continuing challenges with Momentum. Our Report Recommendations and Management's Response follows:

Report Recommendations	Management Response
II.J.3 Conduct spot check reviews that solicitations are being prepared in Momentum.	All solicitations can only be created in Momentum.
II.J.4 Develop a contracting specialist performance standard "Creates and documents all required actions in Momentum."	There is no way to identify a performance standard as all contract work can only be done in momentum.
II.J.5 Provide necessary training on the proper use of Momentum Acquisitions to appropriate LOC users.	While OC is a primary user of Momentum, the system owner has the responsibility for providing training and answering hotline questions about use of Momentum. OGM does provide a forum, via its monthly Contracts Working Group meetings to identify and elevate Momentum challenges to the system owner's representative for discussion and resolution.
II.J.6 Track "Contracting Specialist Use of Momentum" as a performance metric.	As all contracts are created in Momentum and only in Momentum, tracking this metric would not add value.

Although OC's position is that solicitations can only be created in Momentum, contracting specialists interviewed stated otherwise. Staff interviewed stated that they copy terms and conditions and FAR and LOC clauses from other documents and paste them into Momentum instead of using the clause logic. There is a clear disconnect between OC Management and its staff regarding the usage of Momentum and its clause logic in the construction of solicitations. OC should follow-up on this matter with its staff.

Various contract writing systems are used throughout the federal government in the acquisition function. Many have performance standards similar to the one proposed here—"creates and documents all required actions in (the contract writing tool)." Identifying the standard is fairly straightforward; however, monitoring compliance with that standard will necessitate the development of tools and processes.

Finally, while the system owner may not be OC, OC is a primary user—especially as to the Contracting Writing Tool component of Momentum. OC has been hampered for some time now by Momentum's failure to meet OC's needs— either due to configuration issues or the failure to properly train staff on the system. A concerted effort by all parties to get to the bottom of Momentum's deficiencies will be beneficial to the acquisition function.

The Jefferson staff appreciates the opportunity to assist the Library of Congress. If there are additional questions, please feel free to contact the undersigned at any time.

Very respectfully,



Allan V. Burman, Ph.D.
President, Jefferson Solutions