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and the Broadcasting Board of Governors
Office of Inspector General

Report of Audit

Review of the Bureau of African Affairs Unauthorized Commitments

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SUMMARY

The Bureau of Administration, Office of the Procurement Executive (A/OPE), asked the Office of Inspector General (OIG) to review the Bureau of African Affairs, Executive Office's (AF/EX) compliance with federal and Department of State (Department) regulations on the ratification of unauthorized commitments. In April 2002, A/OPE determined that an Information Resource Management Division (AF/EX/IRM) contract employee had improperly purchased information technology (IT) equipment for AF posts that resulted in unauthorized commitments, for as long as 13 years. A/OPE advised AF/EX to request ratification of the unauthorized commitments in accordance with established Department procedures.

OIG's review found that since April 2002, AF/EX had not taken action to identify the extent of unauthorized commitments for improper IT equipment purchases. OIG's review confirmed that during 2000-02, a bureau contractor made unauthorized commitments for 46 AF posts, totaling about \$3.5 million. A contractor admitted that beginning in FY 1989, they made IT equipment purchases for AF posts. OIG learned from AF/EX officials that unauthorized commitments occurred because the AF systems manager position was often vacant and the contractor assumed procurement duties. For their part, AF/EX officials did not raise any concerns about this arrangement when monitoring the contractor's work.

OIG's assessment of current AF/EX procurement practices found that the bureau has sufficiently strengthened its internal control procedures for procurement actions. Specifically, AF/EX has established an Administrative Division to handle bureau procurements appropriately. OIG found no further evidence of unauthorized commitments after FY 2002.

Although AF/EX has taken steps to improve its internal controls over procurements, it has not complied with regulations to ratify unauthorized commitments. OIG recommends that AF/EX identify all unauthorized commitments from FY 1989 to 2002 and seek ratification in accordance with federal and Department regulations.

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OBJECTIVE, SCOPE, AND METHODOLOGY

At the request of A/OPE, OIG reviewed AF/EX's compliance with federal and Department regulations on the ratification of unauthorized commitments. The purpose of the agreed-upon procedures review was to determine if AF/EX had adequately identified the extent of unauthorized commitments the AF/EX/IRM contractors made and identified what action was to be taken to ratify the unauthorized commitments. In addition, OIG agreed to review AF/EX's planned actions to strengthen internal control procedures for procurement actions.

In May 2002, OIG began a preliminary review of the unauthorized commitments in AF/EX, but the review was postponed to accommodate an OIG inspection of AF. OIG's inspection report indicated that the Office of Audits would review the matter of unauthorized commitments at a later date.¹ In performing this review, OIG also used information from a comprehensive review of unauthorized commitments at six Department bureaus, which included AF.²

OIG's agreed-upon procedures review covered AF/EX procurement records from FYs 1989 through 2004. OIG examined FY 2002 through 2004 ratification records that AF/EX, A/OPE, and the Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM) maintain to determine the number of AF ratification requests and A/OPE ratifications. To verify the amount of purchases AF/EX/IRM contractors made that resulted in unauthorized commitments, OIG reviewed AF/EX/IRM's 657 procurement actions and related billing records, dated between November 2000 and October 2002 and totaling about \$3.5 million. Also, to assess AF/EX's current internal controls over procurements, OIG judgmentally selected 44 procurements to review, dating from November 2003 to July 2004, which totaled more than \$2 million. In addition, OIG met with officials from AF/EX and A/OPE to discuss actions related to unauthorized commitments in AF.

¹Report of Inspection, *Bureau of African Affairs* (ISP-I-02-52, Sept. 2002).

²*Review of Department of State's Unauthorized Commitments and Ratification Process* (AUD/PPA-03-42, Sept. 2003).

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The Foreign Affairs Manual, 6 FAM 215(a), and the Federal Acquisition Regulation (FAR) 1.602-3(a) define when an unauthorized commitment occurs. FAR 1.602-3(c), Department of State Acquisition Regulations (DOSAR) 601.602-3, and Department Procurement Information Bulletin 2002-15, dated February 7, 2002, prescribe the process for the ratification of unauthorized commitments.

AF/EX was not able to confirm the availability of procurement records dating back to FY 1989. Therefore, OIG's findings only cover the unauthorized commitments identified in the review for FYs 2000 through 2002. The OIG findings cannot be projected for prior periods not reviewed.

OIG conducted this review in accordance with government auditing standards and included such tests and other auditing procedures as were considered necessary under the circumstances. If OIG had performed additional procedures, then other matters might have come to its attention and would have been reported. OIG's Office of Audits, Procurement, Property and Administrative Support Division performed the review, conducting fieldwork in Washington, D.C., between July and October 2004. In December 2004, OIG held an exit conference with senior AF/EX officials on the results of its review. They concurred with OIG's findings and recommendations.

The Bureau of African Affairs reviewed a draft of this report and agreed with the findings and recommendation. A/LM/AQM and OPE reviewed a draft of this report and electronically responded that they had no comment.

BACKGROUND

From FY 1989 to the present, AF/EX/IRM contractors provided IT support services to AF in Washington and at the posts. During the first and second quarters of FY 2002, an AF/EX/IRM systems manager questioned the appropriateness of IT contractor procurement practices and sought guidance from A/OPE on the issue. In April 2002, A/OPE determined that AF/EX contractors had improperly solicited price quotes from vendors and purchased IT equipment on behalf of AF posts, which resulted in unauthorized commitments that needed to be ratified. A/OPE expressed concern about the extent of the unauthorized commitments and provided AF/EX with the Department's ratification procedures and asked OIG to review the matter.

In May 2002, OIG began a review of the unauthorized commitments, but it was postponed while OIG conducted an inspection of AF. OIG's preliminary review suggested that AF/EX officials strengthen procurement controls and identify and request ratification of the unauthorized commitments. Also, OIG's inspection report confirmed that, contrary to procurement regulations, contractors improperly made IT purchases directly from commercial vendors on behalf of the Department. The report also indicated that the Office of Audits would review the matter at a later date.

According to 6 FAM 215(a), an unauthorized commitment occurs when someone other than a warranted contracting officer commits the government to a contractual action. Senior procurement officials have pointed out that unauthorized commitments are barriers to full and open procurement competition. Unauthorized commitments are a serious matter because if appropriations are not available to fund the commitments, the Anti-Deficiency Act may be violated.³

DOSAR 601.602-3 states that unauthorized commitments violate federal laws, the FAR, and Department regulations. The process for converting an unauthorized commitment to a legal contract is called ratification. Both the FAR and DOSAR prescribe the process to ratify unauthorized commitments. Within the Department,

³31 U.S.C 1341(a).

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the head of the contracting activity is delegated the authority to serve as the ratifying official for unauthorized commitments less than \$1,000, and A/OPE is charged with ratifying unauthorized commitments in excess of \$1,000.

Best Practice: A/OPE Actions To Reduce Unauthorized Commitments

FAR 1.602-3(b)(1) states that agencies should take positive action to preclude, to the maximum extent possible, the need for ratification actions. In recent years, the Department has increased attention on preventing unauthorized commitments. In an effort to decrease the number of unauthorized commitments and to reaffirm the standard format and process for requesting ratification, A/OPE has issued guidance, such as Procurement Information Bulletins, Department Notices, and telegrams.

In February 2002, A/OPE took additional preventive steps by developing and initiating a training program to educate employees on how to prevent unauthorized commitments. To increase personal accountability, it also began to provide copies of its ratifications to the bureau executive offices where unauthorized commitments occurred.

FINDINGS

Unauthorized Commitments

OIG determined that AF/EX did not comply with federal and Department regulations to ratify unauthorized commitments that may date from FYs 1989 to 2002. OIG confirmed that during FY 2000 through 2002, a contractor supporting IT operations in AF/EX made about \$3.5 million in purchases. Although AF/EX/IRM hired contractors to provide IT support services, they often assumed additional duties and exceeded their authority by soliciting price quotes and purchasing IT equipment for AF posts, which resulted in unauthorized commitments. According to AF/EX officials, unauthorized commitments occurred because the AF/EX/IRM systems manager position was often vacant, which resulted in a lack of contractor oversight. As a result, AF/EX was left vulnerable and violated federal and Department procurement regulations.

OIG found that AF/EX had made no attempt to either identify the full extent of the unauthorized commitments for IT equipment purchases or request ratification action. One AF/EX official noted the administrative difficulty in identifying the number of unauthorized commitments made annually for over 40 AF posts, with multiple IT equipment purchases, for approximately 13 years. Nevertheless, senior AF/EX officials agreed that AF must comply and initiate ratification actions in accordance with FAR 1.602-3(c) and DOSAR 601.602-3.

AF/EX may have difficulty in identifying all unauthorized commitments dating back to FY 1989. OIG verified that procurement and billing records for IT purchases exist for at least FYs 1998 through 2002. Procurement records for prior years may not be complete enough to identify whether the contractor supporting AF/EX/IRM made purchases that resulted in unauthorized commitments. A contractor admitted that between FYs 1989 and 2002, they solicited price quotes and procured merchandise directly from vendors for 46 AF posts. OIG confirmed the amount of contractor purchases from November 2000 to October 2002; that is,

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approximately \$3.5 million in IT equipment purchases for 46 AF posts. (See Table 1.) Although this amount for almost two years cannot be projected to prior years, the materiality of all unreported unauthorized commitments over a 13-year period is significant as an internal control weakness pursuant to the Federal Managers' Financial Integrity Act.

Table 1: Contractor Purchases, November 2000 to October 2002

Procurement Thresholds	Number of Orders	Dollars Expended
Above Simplified Acquisition (Above \$100,000)	1	\$103,625
Above Small Purchase (\$25,001-\$100,000)	25	955,819
Small Purchase (\$2,501-\$25,000)	294	2,090,781
Micro Purchase (to \$2,500)	337	344,211
Total	657	\$3,494,436

Source: AF/EX and A/OPE.

Internal Controls

OIG sampled 44 AF/EX procurements from November 2003 to July 2004, totaling more than \$2 million, and found that AF/EX had strengthened internal controls, and there was no evidence of additional unauthorized commitments. AF/EX had instituted new procurement controls as OIG suggested in FY 2002. For example, in a May 2002 cable, AF/EX issued guidance to AF posts that identified procurement and acquisition procedures. The cable stated that only a warranted contracting officer from either the post's contracting office or A/LM/AQM could perform the acquisition duties. The cable further indicated that AF/EX/IRM would not purchase IT equipment for posts but suggested posts "consider making small purchases . . . using the bureau-held [systems manager] purchase card." OIG verified that AF currently coordinates its acquisition requirements through A/LM/AQM.

**Related Accomplishment: Savings From Surcharge
on Interagency Agreement**

Before FY 2002, AF/EX acquired its IT support services through the Defense Logistics Agency (DLA), which levied a one-percent surcharge to procure the contractor on behalf of AF/EX. OIG's Office of Audits questioned the benefits derived from the arrangement, and as a result, AF/EX worked with A/LM/AQM to establish a new procurement vehicle for acquiring contractor IT support services directly from the contractor. AF/EX should save about \$5,000 annually in surcharges previously paid to DLA.

During FY 2003, AF/EX established an Administrative Division to handle bureau procurements and provide greater contractor oversight. OIG found that the new division was successful in ensuring that procurement competition is met, and there is adequate separation of duties in purchasing and receiving equipment. Before this, the OIG review found that AF/EX staff did not comply with FAR 6.102 and 13.104, which outline procurement competition procedures. According to the FAR, for simplified acquisitions under \$100,000, at least three competitors should provide price quotations. For the 657 IT procurement actions OIG reviewed for 2000-02, there was no indication of competition, as two vendors received sole-source procurement orders for about \$3 million of the \$3.5 million (or 87 percent). Also, a single person in AF/EX/IRM ordered and received IT equipment, and approved the ensuing invoices, in violation of the Department's separation of duty policy stated in the Foreign Affairs Handbook 14 FAH-1 H-111. AF/EX has stopped these regulatory infractions, which had left it vulnerable to waste, fraud, and abuse.

OIG found no evidence of unauthorized commitments after FY 2002. However, AF/EX has not taken the required steps to comply with federal and Department regulations that require that all unauthorized commitments be ratified in accordance with Department policy. OIG is concerned that over a 13-year period, AF/EX and the posts did not raise objections to the IT support contractor's assuming inherently governmental duties as a procurement official. AF/EX now needs to take immediate action, based on the availability of records, to ratify all identified unauthorized commitments and bring closure to this issue.

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Recommendation 1: OIG recommends that the Bureau of African Affairs, Executive Office identify the unauthorized commitments in its Information Resource Management Division dating from FYs 1989 through 2002, as available, and comply with FAR 1.602-3(c) and DOSAR 601.602-3 to ratify all outstanding unauthorized commitments.

In response to the draft report, AF/EX concurred with the finding and agreed with the recommendation to comply with FAR 602-3(c) and DOSAR 601.602-3 to ratify all outstanding unauthorized commitments. On the basis of AF/EX's response, the recommendation is resolved. The recommendation can be closed upon A/OPE's ratification of AF's unauthorized commitments.

RECOMMENDATION

Recommendation 1: OIG recommends that the Bureau of African Affairs, Executive Office identify the unauthorized commitments in its Information Resource Management Division dating from FYs 1989 through 2002, as available, and comply with FAR 1.602-3(c) and DOSAR 601.602-3 to ratify all outstanding unauthorized commitments.

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ABBREVIATIONS

AF/EX	Bureau of African Affairs, Executive Office's
AF/EX/IRM	Bureau of African Affairs, Executive Office's, Information Resource Management Division
AF/LM/AQM	Bureau of Administration, Office of Acquisitions Management
A/OPE	Bureau of Administration, Office of the Procedure Executive
Department	Department of State
DLA	Defense Logistics Agency
DOSAR	Department of State Acquisition Regulations
IT	Information Technology
OIG	Office of Inspector General

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