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Office of Inspector General
United States Department of State

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Office of Audits

December 2018

**Information Report:
The Bureau of Administration
Took Action To Address Expired
Office of Facilities Management
Services Contracts**

INFORMATION REPORT

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Summary of Review

In March 2018, officials of the Bureau of Administration's Office of Acquisitions Management (AQM) identified issues concerning acquisition planning, the "misuse" of Federal Acquisition Regulation (FAR) clauses for contract extensions, disregard for the Department of State Acquisition Regulation (DOSAR), and inadequate contract administration associated with 15 Facilities Management Services (FMS) contracts. In April 2018, the Office of Inspector General (OIG) received information from AQM that included a detailed assessment performed by the Functional Bureau Support Branch in AQM's Worldwide Division of 15 FMS contracts valued at approximately \$160 million. The information asserted that the Department of State (Department) issued, in most cases, multiple extensions for the contracts after the periods of performance had expired by "misusing" FAR clauses. In addition, the Bureau of Administration, Office of the Procurement Executive (OPE), had not approved the extensions as required by the DOSAR.

To determine whether AQM's information was supported, OIG initiated a limited-scope evaluation and selected 5 of the 15 FMS contracts in question to validate the conclusions reached by AQM's Functional Bureau Support Branch. After evaluating the assessment, OIG confirmed that acquisition planning was indeed lacking and that FMS contracts had been improperly extended multiple times by misusing FAR clauses. In addition, OIG confirmed that OPE had not approved extensions for the five contracts reviewed, as required by the DOSAR.

While OIG was engaged in evaluating the FMS contracts, AQM was in the process of remediating the contract administration deficiencies identified by the Functional Bureau Support Branch. Specifically, AQM sought and received approval from OPE to extend the applicable contracts beyond their period of performance, which provided time for AQM to prepare and award follow-on contracts. In addition, FMS developed and moved forward with an acquisition plan to address the expiring FMS contracts. The acquisition plan established two indefinite-delivery, indefinite-quantity contracts, and as of October 2018, those contracts were awarded with separate task orders consolidating multiple FMS contracts. The acquisition plan was approved, and fully implemented as of November 1, 2018.

OIG commends AQM for identifying these concerns and for its efforts to resolve them. The actions undertaken by AQM to address the contract administration deficiencies identified with the FMS contracts are important to effectuate open and fair competition for the facilities management services sought by the Department. Fair and open competition is also important for those small businesses seeking opportunities to provide the Department with services. Because of the significance of this issue and the related contract administration deficiencies, OIG will commence with a full-scope performance audit of the contracting practices related to FMS contracts. As part of the performance audit, OIG plans to examine, among other things, the reasons why the misuse of FAR clauses went unaddressed by contract officials and how deviations from DOSAR requirements were allowed to occur.

The Bureau of Administration's Office of Operations provided a response to this report confirming that FMS established and approved an acquisition plan with two indefinite-delivery, indefinite quantity contracts that have been fully implemented as of November 1, 2018. The Bureau of Administration's response is included in Appendix A.

OBJECTIVE

OIG conducted this evaluation to validate an assessment performed by the Functional Bureau Support Branch in AQM's Worldwide Division that identified improper contract administration practices involving FMS contracts.

BACKGROUND

Within the Bureau of Administration, Office of Operations, FMS operates and maintains owned and delegated facilities in the metropolitan Washington, DC, area and at other Department domestic locations.¹ FMS operates and oversees the maintenance of all building systems, including heating, ventilation, air conditioning, plumbing, lighting, electrical, fire protection and suppression systems, elevators, and escalators. FMS also operates and oversees building services, including custodial, pest control, grounds maintenance, trash removal, recycling, waste management, snow removal, and the loading dock. To carry out these services, FMS uses indefinite-delivery, indefinite-quantity² contracts with subsequent task orders. The contracts' periods of performance are for a base period and vary from 1, 2, 3, or 4 options years. In short, the FMS contracts provide essential services that are necessary to make buildings habitable.

Federal and Department Guidance for Contract Management

The Department and its contractors must comply with Federal regulations and Department policy when managing contracts. The FAR establishes the uniform policies and procedures for acquisition by all executive agencies. The Department supplements the FAR through the DOSAR.³

Roles and Responsibilities for Administering and Overseeing Contracts

AQM plans and directs the Department's acquisition programs and conducts contract operations that support worldwide activities. AQM provides a full range of contract management services, including acquisition planning, contract negotiations, cost and price analysis, and contract administration. In addition, OPE is responsible for providing the Department with management direction, leadership, and expertise in the areas of acquisition.

The FAR, DOSAR, and Department policies describe the roles and responsibilities of Government personnel who award, administer, and oversee contracts. The Contracting Officer is the U.S. Government's authorized agent for dealing with contractors and has sole authority to solicit proposals and negotiate, award, administer, modify, or terminate contracts. The Contracting Officer performs

¹ Other Department domestic locations include the Harry S. Truman Building, Columbia Plaza, Blair House, Beltsville Information Management Center, International Chancery Center, National Foreign Affairs Training Center, Portsmouth Consular Center, Charleston Regional Center, Florida Regional Center, Kentucky Consular Center, Enterprise Server Operations Center West, Potomac Annex, Metro Mail Facility, and the Foreign Missions Center.

² Indefinite-delivery, indefinite-quantity is a type of contract that provides for an indefinite quantity of supplies or services during a fixed time. As noted in FAR 16.501-2(a), "General," the "appropriate type of indefinite-delivery contract may be used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award." The Government issues task orders under an indefinite-delivery, indefinite-quantity contract to specify the exact delivery times and quantities and to provide funding for the task.

³ Per FAR 1.301, the Department has issued the DOSAR that implements or supplements the FAR and incorporates, together with the FAR, Department policies, procedures, and contract clauses that govern the contracting process.

duties at the request of the requirements office and relies on those offices for technical support concerning the products or services being acquired.⁴ Contracting Officers within AQM are responsible for awarding and administering the FMS contracts and associated task orders. For facilities services in the metropolitan Washington, DC, area and at other domestic Department locations, the requirements office is FMS.

Purpose of This Information Report

The purpose of this information report is to promptly report the results of OIG's evaluation of the assessment performed by the Functional Bureau Support Branch in AQM's Worldwide Division. OIG trusts this evaluation will advance the timely implementation of management practices that will result in the sound stewardship of U.S. taxpayer dollars and open and fair competition in contracting. OIG conducted this evaluation in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2012 by the Council of the Inspectors General on Integrity and Efficiency. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions presented in this report.

RESULTS

In March 2018, officials of AQM self-identified issues concerning acquisition planning, the "misuse" of FAR clauses for contract extensions, disregard for the DOSAR, and inadequate contract administration associated with 15 FMS contracts. In April 2018, OIG received information from AQM that included a detailed assessment⁵ performed by the Functional Bureau Support Branch in AQM's Worldwide Division of 15 FMS contracts valued at approximately \$160 million. The information asserted that the Department issued, in most cases, multiple extensions for these 15 contracts after the periods of performance for those contracts had expired by "misusing" FAR clauses 6.302-2,⁶ 43.103(a)(3),⁷ 52.217-8,⁸ and 52.237-3.⁹ In addition, OPE had not approved the extensions, as required by the DOSAR.¹⁰ According to AQM, this occurred because FMS did not have a formal acquisition plan.¹¹ The period of performance for some of the contracts was extended more than 2 years after the original period of performance had expired. For example, the Functional Bureau Support Branch identified at least five contracts that were extended multiple times without competition for a total of about 2 years beyond the original contract term. In addition, because FMS did not establish an acquisition plan, as required by the DOSAR, FMS expired contracts required extensions to avoid any service lapses. However, contracts

⁴ 14 Foreign Affairs Handbook-2 H-141.a. "Responsibilities of the Contracting Officer."

⁵ The assessment was reported on March 7, 2018, and was subsequently updated on April 4 and April 26, 2018.

⁶ According to FAR 6.302-2, "Unusual and compelling urgency," when the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition is not required.

⁷ According to FAR 43.103(a)(3), "Type of contract modifications," a bilateral modification is a contract modification that is signed by the contractor and the Contracting Officer. Bilateral modifications are used to reflect other agreements of the parties modifying the terms of contracts.

⁸ According to FAR 52.217-8, "Option to Extend Services," the option provision may be exercised more than once, but the total extension of performance under this provision shall not exceed 6 months.

⁹ According to FAR 52.237-3, "Continuity of Services," the Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after the contract in question expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

¹⁰ According to DOSAR 617.204(e), "Contracts," OPE approval is required before extending any contract beyond a 5-year term.

¹¹ According to DOSAR 607.103(d), "Agency-head responsibilities," "domestic requirements offices must develop a formal, written acquisition plan for all acquisitions exceeding \$5 million. This includes base period plus all option years."

cannot continue to be extended because acquisition planning was lacking. This lack of proper contract administration resulted in continuous contract extensions without adequate competition.

To determine whether AQM's information was supported, OIG initiated a limited-scope evaluation and in August 2018, met with AQM personnel and selected 5 of the 15 FMS contracts in question to validate the conclusions reached by AQM's Functional Bureau Support Branch. Specifically, OIG evaluated the assessment and confirmed that acquisition planning was indeed lacking and that FMS contracts had been improperly extended multiple times by misusing FAR clauses. In addition, OPE had not approved extensions for the five contracts reviewed, as required by the DOSAR.

Specifically, OIG validated the following:

- All five contracts reviewed were extended using FAR 52.217-8, "Option to Extend Services," which allows for an option to be exercised more than once but does not permit the total extension of performance to exceed 6 months. This FAR clause was misused to improperly extend the contracts multiple times by adding 6 months of performance for each extension.
- Three of the five contracts reviewed were extended using FAR 52.237-3, "Continuity of Services," in which a contractor shall furnish phase-in, phase-out services after a contract expires to allow for transition of a new contractor. This FAR clause was misused in three instances because new FMS contracts had not been awarded.
- Two of the five contracts reviewed were extended using FAR 43.103(a)(3), "Type of contract modifications," which allows for bilateral modifications to reflect other agreements of the parties modifying the terms of contracts. This FAR clause was misused because it is not appropriate to use it solely to extend the contracts.
- One contract reviewed was extended using FAR 6.302-2, "Unusual and compelling urgency,"¹² which should be used only when an agency's need for the supplies or services is of such an "unusual and compelling urgency" that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals. This FAR clause was misused because FMS should have developed an acquisition plan before the contract expired. As previously mentioned, an acquisition plan had not been established as required by the DOSAR.¹³
- All five contracts reviewed were extended beyond a 5-year term without OPE approval, which violated DOSAR 617.204 (e).

Table 1 shows the FAR clauses that were misused to extend the five FMS contracts reviewed and the total months extended beyond the initial period of performance.

¹² Contract SAQMMA11D0010 provided operations and maintenance service, preventative maintenance, repairs, custodial services, snow removal, services for building alterations and installation of equipment and systems, and services for architectural and structural repair.

¹³ Ibid.

Table 1: Facilities Management Services Contract Extensions Beyond Period of Performance

Contract Number	Misuse of FAR 52.217-8	Misuse of FAR 52.237-3	Misuse of FAR 43.103(a) (3)	Misuse of FAR 6.302-2	Months Extended
SAQMMA11D0010	X		X	X	37
SAQMMA11D0098	X	X			33
SAQMMA13D0033	X	X			27
SAQMMA11C0037	X	X			21
SAQMMA11D0079	X		X		19

Source: Generated by OIG from data provided AQM.

While OIG was engaged in evaluating the FMS contracts, AQM was in the process of remediating the contract administration deficiencies identified by the Functional Bureau Support Branch. AQM sought and received approval from OPE to extend most of the applicable contracts beyond their period of performance, which provided time for AQM to prepare and award follow-on contracts. In addition, FMS developed and moved forward with an acquisition plan to address the expiring FMS contracts. The acquisition plan established two indefinite-delivery, indefinite-quantity contracts, and as of October 2018, the contracts were awarded with separate task orders consolidating multiple FMS contracts. Ten of the 15 contracts identified by AQM will be consolidated into these 2 sole-source contracts¹⁴ awarded to Alaskan Native Corporations.^{15,16} AQM officials stated for the remaining five contracts that were not included in the acquisition plan, new contracts have been awarded or work has been moved to existing contracts with similar scopes. The acquisition plan was approved, and fully implemented as of November 1, 2018.

As noted, AQM appropriately took steps to identify and address the concerns described previously. The actions undertaken by AQM to address the contract administration deficiencies identified with the FMS contracts are important to effectuate open and fair competition for the facilities management services sought by the Department. Fair and open competition is also important for those small businesses seeking opportunities to provide the Department with services. Because of the significance of this issue and the contract administration deficiencies identified here, OIG will commence with a full-scope performance audit of the contracting practices related to FMS contracts. As part of the performance audit, OIG plans to examine, among other things, the reasons the misuse of FAR clauses went unaddressed by contract officials and how deviations from DOSAR requirements were allowed to occur.

¹⁴ Contract SAQMMA11D0098 has two separate task orders, which will be consolidated between the two sole-source contracts.

¹⁵ Existing contracts SAQMMA13D0033, SAQMMA12D0097, SAQMMA11D0080, SAQMMA11C0037, SAQMMA11D0010, SAQMMA11D0079, and SAQMMA11D0098 for task order SAQMMA14F2911 will be consolidated under the Tatitlek Technologies, Inc., a subsidiary of Tatitlek Corporation, contract.

¹⁶ Existing contracts SAQMMA12D0129, SAQMMA14D0070, SAQMMA11D0104, and SAQMMA11D0098 for task order SAQMMA14F2981 will be consolidated under the PacArctic, a wholly owned subsidiary of Koniag, Inc., contract.

APPENDIX A: BUREAU OF ADMINISTRATION, OFFICE OF OPERATIONS RESPONSE



United States Department of State

Washington, D.C. 20520

November 29, 2018

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MEMORANDUM

TO: OIG/AUD – Ms. Denise Colchin

FROM: A/OPR – Keith D. Hanigan *KDH*

SUBJECT: OIG Information Report: Bureau of Administration Took Action to Address Expired Office of Facilities Management Services Contracts.

Thank you for the opportunity to comment on the subject draft Information Report. Russell Thomason, Director, Office of Facilities Management Services (A/OPR/FMS) is the point of contact and can be reached on (202) 736-4038.

We have no comments for redactions from this report but would like to confirm that A/OPR/FMS developed the acquisition plan which established two indefinite-delivery, indefinite-quantity contracts and was approved, has been fully implemented as of November 1, 2018.

cc: A/EX/CSM – Joseph McGuire
A Front Special Assistants

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Drafter: A/OPR/FMS – Charles Roe
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