



UNITED STATES GOVERNMENT  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF INSPECTOR GENERAL

# MEMORANDUM

**DATE:** July 22, 2010

**TO:** Steven VanRoekel, Managing Director

**FROM:** David L. Hunt, Acting Inspector General 

**SUBJECT:** Reissuance of Report on the Audit of FCC's Recovery Act Procurements

The Office of Inspector General ("OIG" or "Office") issued the subject audit report on March 31, 2010. Subsequent to the report's issuance, we were contacted by the Office of Managing Director and informed that management wanted to submit a supplemental response on the results of the audit. In the interim we removed the audit report from our website and recovery.gov, as requested. The supplemental response was provided on July 1, 2010.

OIG has reviewed the supplemental response and determined that the information provided does not require a supplemental audit report. Therefore, the audit report is being reissued in its entirety, along with the supplemental information. OIG notes that the supplemental information provides management concurrence on recommendations in the original audit report that were not addressed in management's original response to the draft report. This information results in management concurrence to all recommendations contained in the audit report.

Please contact me or Tom Cline of my Office on 202-418-7890 if you have any questions.

## Attachment

cc: Wanda Sims, Associate Managing Director Administrative Operations  
Bridget Gauer, Chief Contracts and Purchasing Center  
Daniel Daly, Chief of Staff  
Walt Boswell, Performance Evaluations and Records Management



*Office of the Managing Director*

MEMORANDUM

DATE: July 1, 2010

TO: David L. Hunt, Acting Inspector General

FROM: Steven VanRoekel, Managing Director

SUBJECT: Supplemental Information for Audit of the FCC's Recovery Act Procurements

The Office of the Managing Director is submitting supplemental information for management's response to the following findings and recommendations for the Audit of FCC Recovery Act Contracts:

Recommendation 3b.

Review the Recovery Act contracts administered by the three (3) untrained COTRs for FAR, OMB Memorandum M-09-15 and Recovery Act Compliance.

**Supplemental Management Response**

Management concurs. FCC management will review the Recovery Act contracts administered by the three COTRs with inadequate training documentation for compliance with the FAR and OMB Memorandum M-09-15 and Recovery Act Compliance.

Recommendations 6a.

Establish standard operating procedures (based on contract type) for COTRs to follow when validating vendor performance.

**Supplemental Management Response**

Management concurs. FCC management will establish and document standardized operating procedures based on contract type for COTR's to follow when validating vendor performance.

Recommendations 6b.

Implement internal controls and written procedures to ensure that COTRs validate and document vendor performance prior to approving the invoice for payment.

**Supplemental Management Response 6b.**

Management concurs. FCC management will implement internal controls and standardized written procedures to ensure that COTR's validate and document vendor performance prior to approving vendor invoices for payment.

A handwritten signature in black ink, appearing to read "S. VanRoekel". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Steven VanRoekel  
Managing Director

cc: Wanda M. Sims, Associate Managing Director  
Administrative Operations  
Bridget Gauer, Chief Contracts and Purchasing Center  
Daniel Daly, Chief of Staff  
Mark Stephens, Chief of Financial Operations  
Walt Boswell, Performance Evaluations and Records Management



## OFFICE OF INSPECTOR GENERAL

### MEMORANDUM

**DATE:** March 31, 2010

**TO:** Steven VanRoekel, Managing Director

**FROM:** David L. Hunt, Acting Inspector General

**SUBJECT:** Report on the Audit of the FCC's Recovery Act Procurements

The Office of Inspector General is providing the report on the Performance Audit of the FCC's Recovery Act Procurements. The Office of Inspector General engaged Ollie Green & Company to conduct the audit. The scope of the audit included Fiscal Year 2009 contracts and purchases funded by the American Recovery and Reinvestment Act (Recovery Act). The audit objectives were to:

- Determine if the contracts funded by the Recovery Act were awarded and administered in accordance with provisions of the Recovery Act, the Federal Acquisition Regulation, and FCC policies and procedures.
- Evaluate the adequacy of the design and implementation of internal controls related to the award and administration of contracts funded by the Recovery Act.

The audit report identified nine findings related to internal controls over the FCC's contract administration process for Recovery Act contracts:

- Internal controls were not documented,
- Contract administration personnel's independence was not always documented,
- Three contract administration personnel did not complete the required training,
- The Letter of Appointment was not signed by contract administration personnel,
- The debarment and suspension searches were not documented,
- Contract administration personnel did not always document their monitoring of vendor performance,
- Contract files were incomplete,
- The Contracting Officer's Technical Representative Handbook was outdated, and
- Prior Office of Inspector General audit recommendations had not been implemented.

Management generally concurred with the auditor's findings and their recommendations for corrective actions. Management has already initiated several corrective actions and agreed to implement additional procedures to improve internal controls over the contract and purchasing process.

Ollie Green & Company is wholly responsible for the attached report dated March 31, 2010.

David L. Hunt, JD  
Acting Inspector General

Attachment

cc: Wanda Sims, Director, Office of Administration  
Bridget Gauer, Director, Contracts and Purchasing  
Ollie Green & Company, CPAs

March 30, 2010

Mr. David L. Hunt, JD  
Acting Inspector General  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Room 2-C750  
Washington, DC 20554

**Subject: Report on the 2009 Performance Audit of Federal Communications Commission's Contracts and Purchasing Center's Compliance with the American Recovery and Reinvestment Act of 2009 (P.L.111-5) Provisions.**

**Mr. Hunt:**

In accordance with the terms of contract # PUR09000698, Ollie Green & Company, CPA's conducted a performance audit of Federal Communications Commission's (FCC) Contracts and Purchasing Center's (CPC) Recovery Act procurements. The audit included assessing CPC's compliance with Recovery Act provisions, FCC's policies and procedures, and federal acquisition laws and regulations.

The results of our audit show that overall FCC-CPC was generally compliant with Recovery Act provisions, FCC policies and procedures, and federal acquisition laws and regulations. However, we identified nine (9) reportable findings that represent internal control weaknesses in CPC's procurement processes. We have disclosed these weaknesses in our report.

We conducted the performance audit in accordance with *Government Auditing Standards*, July 2007 revision. We were not engaged to and did not perform a financial statement audit, the purpose of which would be to express an opinion on specified elements, accounts, or items. This report is intended to meet the objectives described above and should not be used for other purposes.

We appreciate the opportunity to have worked with FCC. Please call me with any questions you may have.

Sincerely,

Ollie Green, MBA, CPA  
Managing Partner

**Ollie Green & Company  
Certified Public Accountants  
Louisville, KY**

**Performance Audit of the  
Federal Communications Commission's  
Recovery Act Procurements**

**March 31, 2010**

**FCC Purchase Order No. PUR09000698**

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American Recovery and Reinvestment Act of 2009 .....	Recovery Act
Contracting Office .....	CO
Contracting Officer Technical Representative .....	COTR
Contracts and Purchasing Center .....	CPC
Excluded Party List System.....	EPLS
Federal Communications Commission .....	FCC
Federal Acquisition Regulation .....	FAR
Office of Inspector General.....	OIG
Ollie Green & Company.....	OG&C
Technical Point of Contact .....	TPOC
Technical Evaluation Panel .....	TEP

## Executive Summary

The Federal Communications Commission (FCC) Office of Inspector General (OIG) contracted with Ollie Green & Company, CPA's (OG&C) to conduct a performance audit of American Recovery and Reinvestment Act of 2009 (Recovery Act)<sup>1</sup> procurements to determine whether the Contracts and Purchasing Center (CPC) is complying with the Recovery Act requirements, FCC's policies and procedures and federal acquisition laws and regulations. The report is organized into the following sections:

- Executive Summary
- Background
- Summary of Findings
- Objective, Scope and Methodology
- Findings and Recommendations

The audit included a review of approximately \$45.3 million in Recovery Act contracts from a universe of \$66.9 million awarded to Small Businesses, Hub Zone Businesses and Other Size Businesses for the fiscal year (FY) ended September 30, 2009. Under the unprecedented transparency and accountability requirements of the Recovery Act, contractors receiving these Recovery Act awards were required to report performance and statistical information, such as number of customers served, installations completed, number of jobs created and the number of jobs retained. Our audit found that FCC management monitored required contractor on-line reporting in accordance with Recovery Act provisions.

The table below illustrates the total dollar values<sup>2</sup> of Recovery Act awards selected for testing compared to the universe available for testing by procurement type.

Procurement Type	Total Awards Sampled	Total Dollars Sampled	Total Awards Universe	Total Dollars Universe
Basic Installs <sup>3</sup>	9	\$4,351,048	26	\$8,797,398
Expert Installs	9	3,131,153	24	6,960,420
Walk-In Centers	8	3,465,360	36	11,558,397
Call Centers	1	28,387,507	2	32,474,507
Media Buys	1	5,966,260	1	5,966,260
IT Support	-0-	-0-	1	1,102,703
<b>Total</b>	<b>28</b>	<b>\$45,301,328</b>	<b>90</b>	<b>\$66,859,685</b>

<sup>1</sup>American Recovery and Reinvestment Act of 2009, P.L. 111 -5.

<sup>2</sup>These values represent the contract awards recorded in CPC's financial systems as provided by agency staff. Ollie Green & Company did not audit these values.

<sup>3</sup>Contracted services included basic in-home digital-to-analog converter box installation, expert in home digital transition services, DTV walk-in help centers, mobile clinics, and nationwide call center services.

The results of our audit testing show that FCC-CPC was generally compliant with Recovery Act requirements, FCC policies and procedures and Federal acquisition laws and regulations. However, we identified nine (9) reportable findings that represent internal control weaknesses in the CPC’s contracting and purchasing processes. Specifically, improvements are needed in the following areas: documentation of internal controls, documentation of personnel independence, Contracting Officer Technical Representative (COTR) training, Letter of Appointment execution, debarment search documentation, monitoring of vendor performance, contract file documentation, COTR handbook update and prior audit follow-up procedures. See the summary of findings and recommendations below:

### Summary of Findings and Recommendations

Findings	Recommendations
1. Internal Controls Not Documented	<p>We recommend that the CPC Director:</p> <p>1a. Develop, document and implement a comprehensive system of internal controls designed to yield assurances that potential errors associated with CPC’s procurement processes will be prevented or detected.</p> <p>1b. Develop written procedures to require a periodic review of CPC’s internal controls to ensure adequacy. Periodic updates should be implemented to address changes in procurement processes.</p>
2. Independence Not Documented	<p>We recommend that the CPC Director:</p> <p>2a. Require COTRs and Technical Evaluation Panel (TEP) personnel to complete conflict of interest statements for the period of responsibility and include in the contract file.</p> <p>2b. Implement internal controls to ensure that COTRs and TEP personnel establish and document their independence prior to assignment of COTR and TEP responsibilities.</p>
3. Three (3) COTRs Did Not Complete the Required Training	<p>We recommend that the CPC Director:</p> <p>3a. Implement internal controls and written procedures to ensure that each COTR assigned to future contracts including Recovery Act contracts is properly trained and proper training documentation is maintained.</p>

Findings	Recommendations
	<p>3b. Review the Recovery Act contracts administered by the three (3) untrained COTRs for FAR, Office of Management and Budget (OMB) Memorandum M-09-15 and Recovery Act Compliance.</p>
<p>4. Letter of Appointment Not Signed By COTRs and Technical Point of Contact (TPOCs) (11 of 18 and 16 of 23 Respectively)</p>	<p>We recommend that the CPC Director:</p> <p>4. Implement internal controls and written procedures to ensure that each COTR/TPOC assigned to all contracts, including Recovery Act contracts, has a signed and fully executed Letter of Appointment in the contract file.</p>
<p>5. Debarment/Suspension Search Not Documented</p>	<p>We recommend that the CPC Director:</p> <p>5a. Review all Recovery Act contract awards to determine whether any of the awardees were debarred or suspended at the time of the contract award. If so, initiate and document appropriate remedying actions.</p> <p>5b. Implement internal controls and written procedures to ensure that an Excluded Party List System (EPLS) search is conducted to determine whether the offeror was debarred or suspended prior to making the contract award. The results of this search should be documented in the contract file.</p>
<p>6. Did Not Always Document Monitoring of Vendor Performance</p>	<p>We recommend that the CPC Director:</p> <p>6a. Establish standard operating procedures (based on contract type) for COTRs to follow when validating vendor performance.</p> <p>6b. Implement internal controls and written procedures to ensure that COTRs validate and document vendor performance prior to approving the invoice for payment.</p>

<b>Findings</b>	<b>Recommendations</b>
<p><b>7. Contract Files Were Incomplete</b></p>	<p><b>We recommend that the CPC Director:</b></p> <p><b>7a. Locate all missing documents required by FAR 4.803 and associate them with the appropriate contract file.</b></p> <p><b>7b. Implement internal controls and written procedures to ensure that contract files contain all documentation required by FAR 4.803 and OMB Memorandum M-09-15.</b></p>
<p><b>8. COTR Handbook Was Outdated</b></p>	<p><b>We recommend that the CPC Director:</b></p> <p><b>8a. Update the COTR Handbook or replace it with other current or more relevant COTR guidance.</b></p> <p><b>8b. Implement internal controls and written procedures to ensure that the new COTR guidance is periodically updated as needed.</b></p>
<p><b>9. Prior OIG Audit Recommendations Not Implemented</b></p>	<p><b>We recommend that the CPC Director:</b></p> <p><b>9a. Implement all audit recommendations made in the OIG audit report 04-AUD -10-20 dated November 4, 2005, and report the corrective actions in accordance with FCC and OIG policy and procedures.</b></p> <p><b>9b. Implement internal controls and written procedures to ensure that all recommendations resulting from prior audits are implemented on a timely basis in accordance with OMB Circular A-50.</b></p>

**Management generally concurred with our findings and recommendations. A copy of management’s comments to our findings and recommendations is provided in Appendix B.**

## **Results of Audit**

### **Background**

The FCC is an independent United States government agency, directly responsible to Congress. The FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the 50 states, the District of Columbia, and U.S. possessions and territories.

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for 5-year terms, except when filling the remainder of an unexpired term. The President designates one of the Commissioners to serve as Chairman and his/her tenure is served at the pleasure of the President. Only three Commissioners may be members of the same political party and none of them can have a financial interest in any FCC-related business. As the chief executive officer of the Commission, the Chairman delegates management and administrative responsibility to the Managing Director. The Commissioners supervise all FCC activities, delegating responsibilities to staff units and Bureaus.

The Recovery Act provided funds to the FCC to assist the American people in their transition to digital TV. The Recovery Act specifies two programs under which the FCC has responsibilities: the Digital-To-Analog Converter Box Program (education and outreach), and the Broadband Technology Opportunities Program. Under the Recovery Act the National Telecommunications and Information Administration (NTIA) of the Department of Commerce may transfer up to \$90 million in funding to the FCC for consumer education and outreach. Initiatives to be funded include media buys, walk-in assistance centers, in-home converter box assistance, call center support services, upgrades to improve the Commission's DTV website, printing DTV publications and translating those publications to benefit non-English speaking communities, and travel for staff providing local support, particularly in markets with a significant percentage of households receiving television signals over-the-air. The Recovery Act states that additional funds may be transferred to the FCC for developing a national broadband plan and for carrying out any other FCC responsibilities under the Broadband Technology Opportunities Program. The FCC's plans for implementing the Recovery Act, as well as its plans for contracting for program requirements, are documented in the Agency-Wide Recovery Act Plan for the Federal Communications Commission ([www.recovery.gov](http://www.recovery.gov)).

The Recovery Accountability and Transparency Board (the Board) was created by the American Recovery and Reinvestment Act of 2009 to coordinate and

conduct oversight of funds distributed under the Recovery Act. The mission of the Board is to foster transparency and to coordinate and conduct oversight of Recovery funds to prevent fraud, waste, abuse and mismanagement. The Board is also responsible for reviewing Recovery Act funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring, as well as referring matters it considers appropriate for investigation to the Inspector General for the agency that disbursed the covered funds. Additionally, the Board requires agencies that receive funds to perform audits of funds appropriated under the Recovery Act.

## **OBJECTIVE, SCOPE AND METHODOLOGY**

The overall objective of the audit was to determine whether contracts funded by the American Recovery and Reinvestment Act of 2009 were awarded and administered in compliance with provisions of the Recovery Act, FCC policies and procedures and provisions, and the Federal Acquisition Regulation (FAR). The scope of the audit included a review of twenty-eight (28) of ninety (90) Recovery Act contracts awarded by the Contracts and Purchasing Center during fiscal year ended September 30, 2009. These twenty-eight (28) contracts were awarded for \$45,301,328. Our audit methodology was designed to utilize a risk-based approach to achieve our audit objectives. Our work included a review of the pre-solicitation, solicitation, evaluation, award, and administration phase of each contract selected in our sample. See Appendix A for additional details on the objectives, scope and methodology.

## **FINDINGS AND RECOMMENDATIONS**

### **1. Internal Controls Not Documented**

Our audit included determining whether CPC had implemented a comprehensive system of internal controls to ensure that Recovery Act funds were expended for the intended purposes, were properly accounted for, and met program objectives. Specifically, we requested a written description or flowchart of internal controls in place; interviewed CPC procurement management officials, COTRs and other personnel; and distributed surveys to sixty-six (66) COTRs, managers, and other CPC personnel soliciting information on internal controls, fraud and the internal control environment. We received eleven (11) responses (17 percent) to our survey. CPC procurement management officials indicated that sufficient controls were in place to prevent or detect potential procurement errors associated with Recovery Act contract awards, but could not provide a written description or flowchart to confirm that it had implemented a comprehensive system of internal controls to ensure compliance with Recovery Act requirements.

According to OMB Circular A-123 *Management's Responsibility for Internal Controls*, management is responsible for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, reliable financial reporting and compliance with applicable laws and regulations. Management shall consistently apply internal control standards to meet each of the internal control objectives and to assess internal control effectiveness.

OMB Memorandum M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, Paragraph 6.5, dated April 3, 2009, states, "Agencies already have in place processes and procedures to continuously monitor and improve the effectiveness on internal control associated with their programs. In light of the Administration's commitment to high levels of accountability and transparency, special attention should be given to maintaining strong internal controls over Recovery Act funds. High risk associated with the award and expenditure of Recovery Act program funds merit increased oversight by the agency."

CPC management officials indicated that an adequate system of internal control was in place but could not provide a written description or flowchart to document the procedures and controls. As a result, we could not determine whether CPC had implemented a comprehensive system of internal controls designed to ensure that Recovery Act funds were expended for the intended purposes, were properly accounted for, and met program objectives.

Our audit also found that the following findings cited in this report resulted from a lack of documented internal controls:

- Did not establish COTR/TEP personnel independence;
- Did not always provide required training;
- Did not always execute the Letter of Appointment;
- Did not document the debarment search;
- Did not always monitor vendor performance;
- Did not maintain complete contract files;
- Did not update COTR handbook;
- Did not implement prior audit recommendations.

Details are discussed in the Findings and Recommendations section of our report.

## **Recommendations**

We recommend that the CPC Director:

- 1a. Develop, document and implement a comprehensive system of internal controls designed to yield assurances that potential errors associated with CPC's procurement processes will be prevented or detected.
- 1b. Develop written procedures to require a periodic review of CPC's internal controls to ensure adequacy. Periodic updates should be implemented to address changes in procurement processes.

## **Management Response**

- 1a. Management concurs. Management has indicated that going forward, it will develop comprehensive procedures designed to detect and prevent potential errors related to its procurement processes. Management has also indicated that it will periodically review CPC's internal controls to ensure compliance.
- 1b. Management Concur. See the response to recommendation no. 1a.

## **Auditor's Comments**

CPC's planned actions are responsive to the audit recommendations cited above and when fully implemented, should satisfy the intent of the audit recommendations.

## **2. Independence Not Documented**

An important part of our audit was determining whether independence had been established and documented by the COTR and Technical Evaluation Panel (TEP) personnel prior to assignment of COTR and TEP responsibilities. In conducting our work, we requested information, documentation and the procedures used by

CPC in establishing COTR and TEP personnel independence. We also requested all signed documentation/statements confirming that the COTR and TEP personnel were independent. This information was not available. Finally, we requested conflict of interest files. These files were not provided. The unprecedented accountability and transparency requirements associated with the use of Recovery Act funds supports our conclusion that establishing and documenting COTR and TEP personnel independence is an important part of the contract administration process. Our audit found that COTRs and TEP personnel did not document their independence in the contract file.

FAR Subpart 3.101-1, states “Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must, in addition, be such that they would have no reluctance to make a full public disclosure of their actions.”

Our audit found that CPC did not have adequate internal controls in place to ensure that COTRs and TEP personnel established and documented independence prior to assignment of COTR and TEP responsibilities. As a result, we could not determine whether independence had been established by COTRs and TEP personnel for Recovery Act contracts.

## **Recommendations**

We recommend that the CPC Director:

- 2a. Require COTRs and TEP personnel to complete conflict of interest statements for the period of responsibility and include in the contract file.
- 2b. Implement and document internal controls to ensure that COTRs and TEP personnel establish and document independence prior to assignment of COTR and TEP responsibilities.

## **Management Response**

- 2a. Management concurs. Management has proposed to implement a process that will require COTRs and TEP personnel to establish and document independence prior to contract assignment.
- 2b. Management concurs. See the response to recommendation no. 2a.

## **Auditor's Comments**

CPC's planned actions are responsive to the audit recommendations cited above and when fully implemented, should satisfy the intent of the audit recommendations. We reiterate our recommendation that management review Recovery Act files to ensure that conflicts of interest did not exist at the time COTRs were assigned.

### **3. Three (3) COTRs Did Not Complete Required Training**

As part of our testing, we reviewed the training files of twenty-two (22) Contracting Officer Technical Representatives (COTR) with Recovery Act COTR responsibilities. The purpose of our test was to determine whether required COTR training had been completed prior to the assignment of COTR responsibilities. Specifically, we requested information confirming dates the training commenced, the training completion dates and copies of the completion certificates. Our audit found that nineteen (19) of the twenty-two (22) COTRs had completed the required COTR training prior to assignment of COTR Responsibilities. However, CPC could not provide evidence to confirm that three (3) other COTRs appointed to administer Recovery Act contracts had completed the required training and certification requirement.

According to Federal Acquisition Certification for Contracting Officer Technical Representative (FAC-COTR), dated November 26, 2007, all appointed COTRs must be certified no later than six (6) months from their date of appointment and must maintain 40-continuous learning points (CLPs) of skill currency through continuous learning. The FAC-COTR establishes skill and core competencies for COTRs and requires a minimum of 40 hours of training every two years. Twenty-two (22) of the required 40 hours of training must cover the essential core COTR competencies.

OMB Memorandum M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, Paragraph 6.3, dated April 3, 2009, requires agencies to evaluate their workforce needs so that they are able to appoint qualified Contracting Officers, COTRs, and Program Managers with certification levels appropriate to the complexity and risk of Recovery Act projects.

Our audit found that CPC did not have adequate internal controls in place to ensure that required training documentation was maintained in the training documentation file. CPC management indicated that there was an urgent need to appoint a large number of COTRs in a short period of time to administer ninety (90) Recovery Act contract awards. CPC management also indicated that two (2) of the three (3) COTRs had attended the COTR training but had not completed the full forty (40) hour course requirement.

This departure from FAC-COTR and OMB Memorandum M-09-15 and the use of untrained personnel on Recovery Act contracts may have resulted in ineffective:

- Monitoring and Oversight of Contractor Performance;
- Processing of Contractor Invoices;
- Execution of Close-Out Procedures.

## **Recommendations**

We recommend that the CPC Director:

- 3a. Implement internal controls and written procedures to ensure that each COTR assigned to future contracts including Recovery Act contracts is properly trained and proper training documentation is maintained.
- 3b. Review the Recovery Act contracts administered by the three (3) untrained COTRs for FAR, OMB Memorandum M-09-15 and Recovery Act Compliance.

## **Management Response**

- 3a. Management concurs. Management has indicated that it has implemented an internal control procedure to ensure that the COTR certification is validated prior to initiating COTR designation authority on all future contracts.
- 3b. Management did not respond to this recommendation.

## **Auditor's Comments**

CPC's corrective actions are responsive to audit recommendation no. 3a and satisfy the intent of the audit recommendation. However, management did not respond to recommendation no. 3b regarding the review of contracts administered by the three (3) untrained COTRs for compliance with FAR, OMB Memorandum M-09 and the Recovery Act.

## **4. Letter of Appointment Not Signed By COTRs/TPOCs**

Our audit included a review of twenty-eight (28) contract files to determine whether the Contracting Officer had effectively delegated and documented COTR and TPOC responsibilities, and that COTRs and TPOCs had documented their acceptance of those responsibilities by signing the Letter of Appointment. The Letter of Appointment used by CPC in this process required the signatures of the CO, COTRs and TPOCs executing the appointment of the COTR and TPOC in the same Letter of Appointment. Our specific procedures included identifying all COTRs/TPOCs with Recovery Act responsibilities, obtaining copies of their respective Letters of Appointment from the contract file, and inspecting the

Letter of Appointment for accuracy and completeness. Our audit found the following:

- Eleven (11) of eighteen (18) COTRs did not sign the Letter of Appointment;
- Sixteen (16) of twenty-three (23) TPOCs did not sign the Letter of Appointment;
- The Letter of Appointment was not found for one (1) of twenty-eight (28) contracts selected in our sample.

FCC-CPC policies and procedures require that the appointment of COTRs and TPOCs be accompanied by a signed Letter of Appointment.

OMB Memorandum M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, Paragraph 6.3, dated April 3, 2009, requires agencies to evaluate their workforce needs so that they are able to appoint qualified Contracting Officers, COTRs, and Program Managers with certification levels appropriate to the complexity and risk of Recovery Act projects.

Our audit found that CPC did not follow its policies and procedures requiring that a Letter of Appointment be signed by COTRs and TPOCs and retained in the contract file. CPC management indicated that all COTRs and TPOCs had been given a copy of the Letter of Appointment to sign and return to the CO to be filed in the contract file. CPC management also indicated that some may still be in the possession of COTRs/TPOC and had not been returned to file.

This lack of formal acceptance by COTRs and TPOCs is a departure from CPC policies and procedures as well as OMB Memorandum M-09-15 and resulted in the appointment of eleven (11) COTRs and twenty-six (26) TPOCs without fully executing the required Letters of Appointment.

## **Recommendations**

We recommend that the CPC Director:

4. Implement internal controls and written procedures to ensure that each COTR/TPOC assigned to all contracts, including Recovery Act contracts, has a signed and fully executed Letter of Appointment in the contract file.

## **Management Response**

4. Management concurs. Management has indicated that it has implemented an internal control procedure to ensure that all COTRs and COs sign the COTR delegation letter.

## **Auditor's Comments**

CPC's planned actions are responsive to the audit recommendation cited above and when fully implemented, should satisfy the intent of the audit recommendation.

### **5. Debarment/Suspension Search Not Documented**

Our review of contract files, COTR files, available policies and procedures as well as discussions with CPC procurement management officials indicated that CPC had not established adequate controls and procedures to ensure that it does not solicit offers from or award contracts/subcontracts to parties whose names are on the Excluded Party List System (EPLS) or debarment list. CPC officials stated that the EPLS search was always conducted but could not provide documentation to confirm it. EPLS is an electronic, web-based system that identifies those parties excluded from receiving federal contracts, certain subcontracts and certain types of financial assistance and benefits. The EPLS keeps the user community aware of administrative and statutory exclusions across the entire government. Users are able to search, view, download and print both current and archived exclusions.

According to Federal Acquisition Regulation (FAR) 9.404(c)(7) Excluded Party List System, each agency must establish procedures to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with contractors whose names are in the EPLS.

Our audit found that CPC did not have adequate internal controls in place to ensure that EPLS searches were documented. CPC management officials indicated that the EPLS web site was accessed and a search was made before awarding Recovery Act as well as other contracts. However, in all twenty-six (26) of the fixed price contracts that we reviewed, this procedure was not documented. As a result, we were unable to determine whether Recovery Act vendors were debarred from conducting business with the federal government.

## **Recommendations**

We recommend that the CPC Director:

- 5a. Review all Recovery Act contract awards to determine whether any of the awardees were debarred or suspended at the time of the contract award. If so, initiate and document appropriate remedying actions.
- 5b. Implement internal controls and written procedures to ensure that an EPLS search is conducted to determine whether the offeror was debarred or suspended prior to making the contract award. The results of this search should be documented in the contract file.

## **Management Response**

5a. Management concurs. Management has re-confirmed and documented that all awarded Recovery Act vendors were not listed on the EPLS. Management has implemented a contracting file documentation policy to ensure that contract files document this information in the future.

5b. Management concurs. See the response for recommendation no. 5a.

## **Auditor's Comments**

CPC's planned actions are responsive to the audit recommendations cited above and when fully implemented, should satisfy the intent of the audit recommendations.

## **6. Did Not Always Document Monitoring of Vendor Performance**

As part of our audit, we reviewed twenty-eight (28) COTR files selected in our sample to determine whether COTRs had monitored and verified vendor performance prior to approving invoices submitted for payment. These twenty-eight (28) files were administered by eighteen (18) different COTRs. Acquisition laws and regulations require the COTRs to monitor performance, verify deliverables in accordance with the contract requirements and certify satisfactory accomplishment of work billed on the contractor's invoices prior to payment. This process should be documented. In conducting our work, we reviewed CPC's policies and procedures, obtained checklists, emails, spreadsheets, written evidence, and other documentation used by the COTR to monitor and verify vendor performance. We also conducted interviews with COTRs to obtain other useful information and additional clarification on how the COTR monitored, verified and documented the vendor's performance. Our audit found that in twenty-three (23) of the twenty-eight (28) COTR files reviewed, there was sufficient documentary evidence to confirm that the vendor's performance was adequately monitored and verified prior to approving invoices for payment. However, CPC did not provide sufficient documentation in five (5) other COTR files to show that the COTR had monitored and validated the vendor's performance prior to approving the invoice.

FAR Subpart 42.302 – *Contract Administration Functions* permits the Contracting Officer to delegate the following functions to the COTR:

- Review and approve or disapprove the contractor's request for payment under the progress payments or performance-based payment clauses;
- Make payments on assigned contracts when prescribed in agency acquisition regulations.

OMB Memorandum M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, Paragraph 6.3, dated April 3, 2009, states that Agencies must provide for appropriate oversight of contracts to ensure outcomes that are consistent with and measurable against agency plans and goals under the Act. It is critical that agencies evaluate their workforce needs so that they are able to appoint qualified Contracting Officers, COTRs, and Program Managers with certification levels appropriate to the complexity and risk of Recovery Act projects. In addition, agencies should actively monitor contracts to ensure that performance, cost, and schedule goals are being met including:

- Implementing quality assurance procedures established for the contract;
- Documenting timely inspection and acceptance of deliverables;
- Promptly using all available tools to identify and remedy deficiencies related to contractor performance, cost, and schedule (e.g., Quality Assurance Surveillance Plans, cure notices, show cause letters); and
- Completing timely contractor performance evaluations that accurately reflect the contractor's actual performance, and are supported by appropriate documentation.

Our audit found that CPC did not have adequate internal controls in place to ensure that COTRs always validated the vendor's performance prior to approving vendor invoices. As a result, we could not determine whether the COTR had verified the vendor's performance prior to approving the invoices for payment for the aforementioned five (5) COTR files cited above.

## **Recommendations**

We recommend that the CPC Director:

- 6a. Establish standard operating procedures (based on contract type) for COTRs to follow when validating vendor performance.
- 6b. Implement internal controls and written procedures to ensure that COTRs validate and document vendor performance prior to approving the invoice for payment.

## **Management Response**

- 6a. Management did not respond to this recommendation.
- 6b. Management did not respond to this recommendation.

## Auditor's Comments

Management agrees that three (3) COTRs did not sufficiently document validation of vendor performance prior to payment of the invoice. Management has also indicated that it has verified that vendor performance had been validated prior to invoice payment. However, CPC did not respond to the requirements of recommendations 6a and 6b regarding the establishment of operating procedures and internal controls.

### 7. Contract Files Were Incomplete

Our audit included the review of a sample of twenty-eight (28) contract files selected for testing to determine whether documentation was sufficient to provide interested parties with the contracting action's history. Our work included inspecting each of the contract files to determine whether required documentation had been properly completed, approved, signed and retained as part of the permanent contract file. Our audit found the following required documents were missing from the twenty-eight (28) contract files that we reviewed:

Reference FAR Subpart	Missing Document	Number of Occurrences
4.803(a)(7)	Government Estimate of Contract Price	26
4.803(a)(11)	Contractor's Representations and Certifications	11
4.803(a)(26)	Original Signed Contract Modifications	1

FAR Subpart 4.802 (a), *Contract Files*, and 4.803, *Contents of Contract Files*, stipulate what a contract file should generally consist of and provide examples of documents normally contained in contract files.

According to FAR Subpart 4.801 (a), the head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions.

FAR Subpart 4.803 (b) requires documentation in the file to be sufficient to constitute a complete history of the transaction for the purpose of:

- (1) Providing a complete background as a basis for informed decisions at each step in the acquisition process;
- (2) Supporting actions taken;
- (3) Providing information for investigations and reviews;
- (4) Furnishing essential facts in the event of litigation or congressional inquiries.

Further, OMB Memorandum M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, Paragraph 6.5, dated April 3, 2009, states that Agencies are reminded that proper documentation must be maintained for each contract award. FAR Subpart 4 prescribes policies and procedures related to proper documentation of contract files.

Our audit found that CPC did not have adequate internal controls in place to ensure that contract files contained the required documents to support all contract actions. CPC Procurement Officials indicated that some of the documents may be in other files and some may have been omitted due to the urgency associated with awarding the ninety (90) Recovery Act contracts in the time allotted to complete the analog to digital transition.

This departure from FAR Subparts 4.802 and 4.803 rendered the contract files incomplete and lacking documentation sufficient to provide interested parties with the contracting action's history.

## **Recommendations**

We recommend that the CPC Director:

- 7a. Locate all missing documents required by FAR 4.803 and associate them with the appropriate contract file.
- 7b. Implement internal controls and written procedures to ensure that contract files contain all documentation required by FAR 4.803 and OMB Memorandum M-09-15.

## **Management Response**

- 7a. Management concurs that some documents were missing.
- 7b. Management concurs. Management has indicated that going forward, it will implement an internal control procedure to ensure that contract files contain all documentation required by FAR 4.803 and OMB Memorandum M-09-15.

## **Auditor's Comments**

CPC's planned actions are responsive to audit recommendation no. 7b and when fully implemented, should satisfy the intent of this audit recommendation. However, CPC should also locate all missing documents required by FAR 4.803 and associate them with the contract file as recommended by no. 7a.

## **8. COTR Handbook Was Outdated**

In our review of COTR activities, our audit found that some COTRs were in possession of a COTR Handbook dated July 1998. Our audit found that FCC, in response to a 1997 OIG audit of FCC's COTR program, issued a five (5) volume COTR Handbook for use by COTRs and TPOCs. This Handbook is now more than eleven (11) years old and much of the instructional guidelines are outdated and not in sync with current acquisition laws and regulations. This guide was designed to provide management tools, checklists, practical guidance and sample documents for use by COTRs and TPOCs. Most COTRs and TPOCs interviewed indicated that they had never used the Handbook and were unfamiliar with its contents. Our review of the Handbook found that some of the instructional guidance and practical aids were still effective, relevant, and useful, but needed some updating to align with current acquisition laws and regulations.

Office of Federal Procurement Policy (OFPP), Policy Letter 05-01 dated April 15, 2005, states that the Chief Acquisition Officer (CAO) is responsible for developing basic and refresher training requirements to ensure Contracting Officer's Representative (COR) and COTRs are adequately trained for the function they perform in the acquisition workforce.

Our audit found that CPC did not have adequate internal controls in place to ensure that the COTR Handbook was periodically updated. CPC management indicated that this Handbook had been superseded with more current guidance but did not provide documentation to substantiate this position. We also noted that the 1998 Handbook was still posted on the FCC intranet. As a result, we could not determine whether the 1998 Handbook had been superseded with updated guidance.

### **Recommendations**

We recommend that the CPC Director:

- 8a. Update the COTR Handbook or replace it with other current or more relevant COTR guidance.
- 8b. Implement internal controls and written procedures to ensure that the new COTR guidance is periodically updated as needed.

### **Management Response**

- 8a. Management concurs. Management has indicated that CPC will determine the value of the supplemental handbook and will either remove it or update it to reflect current guidance to the COTR in the execution of his/her duties. Management has also indicated that CPC will update its internal controls

concerning COTR training to reflect the latest requirements per IAW FAC-COTR.

8b. Management concurs. See response for no. 8a.

### **Auditor's Comments**

CPC's planned actions are responsive to the audit recommendations cited above and when fully implemented, should satisfy the intent of the audit recommendations.

## **9. Did Not Implement Recommendations From Prior OIG Audit**

As part of the overall audit process, we conducted a follow-up review of findings identified in the FCC-OIG's prior audits of the FCC's Office of Contracts and Purchase's policies and procedures. This review was conducted to assist in our assessment of risk associated with findings cited in the report and to determine whether CPC had implemented recommendations made in the prior audit reports. Our work included obtaining and reviewing OIG report (No. 04-AUD-10-20) dated November 4, 2005 titled "*Report on the Audit of Federal Communications Commission Contracts and Purchases Policies and Procedures.*" This report cited six (6) reportable findings and one (1) observation in FCC's procurement and contracting activities. We also obtained and reviewed a copy of the Federal Communications Commission Performance and Accountability Report (PAR) for fiscal year ended September 30, 2008. This report cited one (1) material weakness and five (5) significant deficiencies, but none that related to CPC's contracts and purchasing activities. There were no internal control findings in either report that related to CPC. CPC management officials indicated that corrective action had been implemented to address recommendations made in the OIG report, but could not support this position with documentation. Our audit found two (2) repeat findings from the OIG audit report on Contracts and Purchases policies and procedures.

In accordance with OMB Circular No. A-50, *Audit Follow-Up*, September 1982, CPC should develop a corrective action plan to set forth the specific actions planned to implement the recommendations and the schedule to provide the timeframe for implementation.

Our audit found that CPC did not have adequate internal controls in place to ensure that audit recommendations are implemented on a timely basis. CPC management officials indicated that OIG audit recommendations had been implemented but were not able to provide verification. As a result, we could not determine whether CPC had implemented all recommendations made in the OIG audit report. Additionally, the audit found that two (2) recommendations had been closed but had not been implemented.

## **Recommendations**

We recommend that the CPC Director:

- 9a. Implement all audit recommendations made in the OIG audit report 04-AUD - 10-20 dated November 4, 2005, and report the corrective actions in accordance with FCC and OIG policy and procedures.
- 9b. Implement internal controls and written procedures to ensure that all recommendations resulting from prior audits are implemented on a timely basis in accordance with OMB Circular A-50.

## **Management Response**

- 9a. Management concurs that some of the recommendations made in the OIG report dated November 4, 2005 were not implemented.
- 9b. Management concurs. Management has indicated that going forward, CPC will implement internal controls and written procedures to ensure that all recommendations resulting from prior audits are implemented on a timely basis in accordance with OMB Circular A-50.

## **Auditor's Comment**

Management's planned actions are responsive to audit recommendation no. 9b and when fully implemented, should satisfy the intent of the audit recommendation. However, management should implement all audit recommendations made in the OIG audit report 04-AUD -10-20 dated November 4, 2005, and report the corrective actions in accordance with FCC and OIG policy and procedures as required by recommendation no. 9a.

## **Appendix – A**

### **Objectives, Scope and Methodology**

The overall objective of the audit was to determine whether contracts funded by the American Recovery and Reinvestment Act of 2009 were awarded and administered in compliance with provisions of the Recovery Act, FCC policies and procedures and provisions, and the Federal Acquisition Regulation (FAR).

The specific objectives of the audit were to:

- Determine whether the FCC had implemented a comprehensive system of internal controls to ensure that Recovery Act funds were expended for the intended purposes, were properly accounted for, and met program objectives;
- Determine whether Recovery Act contracts were properly awarded and effectively administered;
- Determine whether the contracting office was adequately staffed and appropriately organized to effectively administer contracts funded by the Recovery Act;
- Determine whether the contracting office was structured, organizationally, in a manner that provides a framework that ensures that integrity and independence for Recovery Act contracts are not impaired;
- Determine whether personnel administering Recovery Act contracts (COs, CORs, COTRs, and TPOCs) were properly trained and appointed in writing;
- Determine whether the contracting office complied with competition requirements set forth by the Recovery Act, Code of Federal Regulations Title 41, the Federal Acquisition Regulation and other acquisition regulations and policies when awarding and administering contracts;
- Determine whether all Recovery Act sole source contracts were properly supported by a legal review and an adequate justification for other than full and open competition;
- Determine whether the contracting office performed adequate reviews of offeror's past performance prior to awarding Recovery Act contracts;

- Determine whether the contracting office ensured that offerors were not on the SBA or other list of suspended, debarred or excluded parties;
- Determine whether Recovery Act contract billings were accurate, prepared in accordance with the FAR, and included adequate detail to support charges;
- Determine whether contracted goods and services using Recovery Act funds were appropriate under the provisions of the Recovery Act;
- Determine whether the Contracting Office complied with small business contracting provisions set forth in the Recovery Act, CFR and the FAR;
- Determine whether contracted Recovery Act goods and services (deliverables) were actually received, and properly recorded as accepted prior to payment;
- Determine whether Recovery Act contracts were awarded free of conflicts of interest and other impairments to independence.

The scope of the audit included a review of twenty-eight (28) Recovery Act contracts awarded by the Contracts and Purchasing Center during fiscal year ended September 30, 2009. These contracts were awarded for \$45,301,328. The purpose of our review was to determine whether contracts funded by the Recovery Act were awarded and administered in accordance with provisions of the Recovery Act, FCC policies and procedures and provisions and the Federal Acquisition Regulation (FAR). Our work included a review of the pre-solicitation, solicitation, evaluation, award, and administration phase of each contract selected in our sample. Our risk-based judgmental sample selection included two (2) of four (4) Time and Materials (T&M) contracts with a contract value of \$34,353,767 and twenty-six (26) of eighty-six (86) fixed price contracts with a contract value of \$10,947,561. Our total sample consisted of 28 contracts totaling \$45,301,328 or 67.8 percent of the contracts universe (\$66,859,685). Our professional auditing services were limited to a review of Recovery Act procurements to include the pre-solicitation, solicitation, evaluation, award and administration phases of each contract selected in our sample. Our professional services also included determining whether CPC had implemented a comprehensive system of internal controls that was adequate to ensure Recovery Act funds were expended for the intended purposes, were properly accounted for and that program objectives were being met.

We conducted the audit from September 2009 through January 2010 in accordance with *Government Auditing Standards*, July 2007 revision. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and

conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objectives.

Our audit methodology was designed to utilize a risk-based approach. To achieve our audit objectives, we:

- Reviewed available policies and procedures governing the procurement and contracting process; conducted interviews with COTRs, TPOCs, management and other personnel;
- Distributed surveys to sixty-six (66) management and non-management personnel soliciting information on Recovery Act compliance, internal controls, fraud, training, supervision and ethics;
- Conducted a detailed review of sampled contract files, COTR files and Technical Evaluation Panel (TEP) files;
- Conducted a walk-through of the Desk Top Procurement Software procedures; identified high risk areas; reviewed training files;
- Reviewed personnel appointment documents;
- Conducted a follow-up review of findings identified in the FCC-OIG's Audit of FCC's Contracts and Purchases Policies and Procedures.

The audit included a review of approximately \$45.3 million in Recovery Act contracts from a universe of \$66.8 million awarded to Small Businesses, Hub Zone Businesses and Other Size Businesses. Under the unprecedented transparency and accountability requirements of the Recovery Act, contractors receiving Recovery Act awards were required to report performance information, such as number of customers served or installations completed as well as other statistical information. This information is required to be posted to the FCC Recovery Act web site. These contractors provided education and outreach services, basic and expert converter box installations, static and mobile walk-in centers and information technology services. Contracts were also awarded for media buys and call center services. The primary recipients of these services were vulnerable populations, including senior citizens, minority communities, people with disabilities, low-income individuals and people living in rural areas. The following tables below illustrate the total number and dollars of Recovery Act awards tested compared to the universe available for testing by socio-economic status, procurement type and region.

### Recovery Act Dollars Awarded By Socio-Economic Status

Socio-Economic Status	Total Awards Sampled	Total Dollars Sampled	Total Awards Universe	Total Dollars Universe
Hub-Zone	8	\$5,364,476	20	\$8,999,349
Small Businesses	10	2,147,998	32	9,361,064
Other Size Businesses	10	37,788,854	38	48,499,272
<b>Total</b>	<b>28</b>	<b>\$45,301,328</b>	<b>90</b>	<b>\$66,859,685</b>

### Recovery Act Dollars Awarded By Procurement Type

Procurement Type	Total Awards Sampled	Total Dollars Sampled	Total Awards Universe	Total Dollars Universe
Basic Installs	9	\$4,351,048	26	\$8,797,398
Expert Installs	9	3,131,153	24	6,960,420
Walk-In Centers	8	3,465,360	36	11,558,397
Call Centers	1	28,387,507	2	32,474,507
Media Buys	1	5,966,260	1	5,966,260
IT Support	-0-	-0-	1	1,102,703
<b>Total</b>	<b>28</b>	<b>\$45,301,328</b>	<b>90</b>	<b>\$66,859,685</b>

### Recovery Act Dollars Awarded By Region

FCC Region	Total Awards Sampled	Total Dollars Sampled	Total Awards Universe	Total Dollars Universe
East Central Region	4	\$2,397,666	12	\$3,982,644
Southwest Region	6	2,694,196	16	5,089,116
Southeast Region	5	1,912,520	16	3,707,867
Northeast Region	4	1,303,978	16	4,904,156
West Central Region	4	1,350,776	18	4,732,869
Pacific Region	3	1,288,425	8	4,899,563
Nationwide <sup>4</sup>	2	34,353,767	4	39,543,470
<b>Total</b>	<b>28</b>	<b>\$45,301,328</b>	<b>90</b>	<b>\$66,859,685</b>

<sup>4</sup>CPC awarded a Recovery Act contract for call center services to cover all fifty (50) states, Washington, DC and US Possessions and Territories.

## Appendix – B

### Management Comments

UNITED STATES GOVERNMENT

# Memorandum

Date: March 19, 2010

To: Robert McGriff, COTR of Inspector General

Cc: William Garay  
Wanda Sims  
Ollie Green and Company

From: Mark Gerner, Audit Liaison Recovery Act

Re: **2009 Audit of Recovery Act Procurements Response to Draft Report 3/12/10**

#### 1. Internal Controls Not Documented

We recommend that the Contracting and Purchasing Center Director:

- 1a. Develop, document and implement a comprehensive system of internal controls designed to yield assurances that potential errors associated with Contracting and Purchasing Center's procurement processes will be prevented or detected.
- 1b. Develop written procedures to require a periodic review of Contracting and Purchasing Center's internal controls to ensure adequacy. Periodic updates should be implemented to address changes in procurement processes.

**Management Response:**

Going forward, management will develop comprehensive written procedures to detect and prevent potential errors. Management will periodically review the Contracting and Purchasing Center's internal controls to ensure compliance.

#### 2. Independence Not Documented

We recommend that the Contracting and Purchasing Center Director:

- 2a. Require Contracting Officers Technical Representatives and Technical Evaluation Panel personnel to complete conflict of interest statements for the period of responsibility and include in the contract file.

- 2b. Implement and document internal controls to ensure that Contracting Officers Technical Representatives and Technical Evaluation Panel personnel establish and document independence prior to assignment of Contracting Officers Technical Representatives and Technical Evaluation Panel personnel responsibilities.

**Management Response:**

Going forward, management will implement a process to ensure that Contracting Officers Technical Representatives and Technical Evaluation Panel personnel establish and document independence prior to Contract Assignment.

**3. Three (3) Contracting Officers Technical Representative's Did Not Complete Required Training**

We recommend that the Contracts and Purchasing Center Director:

- 3a. Implement internal controls and written procedures to ensure that each Contracting Officers Technical Representative assigned to future contracts including Recovery Act contracts is properly trained and proper training documentation is maintained.
- 3b. Review the Recovery Act contracts administered by the three (3) untrained Contracting Officers Technical Representatives for FAR, OMB Memorandum M-09-15 and Recovery Act Compliance.

**Management Response:**

The Contracts and Purchasing Center has implemented an internal procedure to ensure Contracting Officers Technical Representative certification is validated and current prior to initiating Contracting Officers Technical Representative designation authority to all future contracts.

**4. Letter of Appointment Not Signed By Contracting Officers Technical Representative's/Technical Points Of Contact**

We recommend that the Contracts and Purchasing Center Director:

- 4a. Require Contracting Officers Technical Representative's and Technical Points Of Contact with a unilaterally signed (Contracting Officer only) Letter of Appointment in the contract file to sign the unilaterally signed Letter of Appointment and retain a file copy.
- 4b. Implement internal controls and written procedures to ensure that each Contracting Officers Technical Representative / Technical Point Of Contact assigned to all contracts, including Recovery Act contracts, has a signed and fully executed Letter of Appointment in the contract file.

**Management Response:**

Management concurs with the findings. The Contracts and Purchasing Center has implemented an internal procedure to ensure all Contracting Officers Technical Representative's, vendors, and Contracting Officers sign the Contracting Officers Technical Representative delegation letter.

## **5. Debarment/Suspension Search Not Documented**

We recommend that the Contracts and Purchasing Center Director:

- 5a. Review all Recovery Act contract awards to determine whether any of the awardees were debarred or suspended at the time of the contract award. If so, initiate and document appropriate remedying actions.
- 5b. Implement internal controls and written procedures to ensure that an EPLS search is conducted to determine whether the offeror was debarred or suspended prior to making the contract award. The results of this search should be documented in the contract file.

### **Management Response:**

Management has re-confirmed and documented that all awarded Recovery Act Vendors were not listed on the excluded parties list. The Contracts and Purchasing Center has implemented a contracting file documentation policy to ensure that contract files document this information in the future.

## **6. Did Not Always Document Monitoring of Vendor Performance**

We recommend that the Contracts and Purchasing Center Director:

- 6a. Establish standard operating procedures (based on contract type) for Contracting Officers Technical Representative's to follow when validating vendor performance.
- 6b. Implement internal controls and written procedures to ensure that Contracting Officers Technical Representative's validate and document vendor performance prior to approving the invoice for payment.

### **Management Response:**

Management agrees that there were three Contracting Officers Technical Representative files that did not sufficiently document validation of vendor performance prior to payment of the invoice. However, Management has verified that vendor performance was validated prior to payment.

## **7. Contract Files Were Incomplete**

We recommend that the Contracts and Purchasing Center Director:

- 7a. Locate all missing documents required by FAR 4.803 and associate them with the appropriate contract file.
- 7b. Implement internal controls and written procedures to ensure that contract files contain all documentation required by FAR 4.803 and OMB Memorandum M-09-15.

**Management Response:**

Management agrees that some documents are missing from the contract folder. Going forward management will implement an internal procedure to ensure that contract files contain all documentation required by FAR 4.803 and OMB Memorandum M-09-15.

## **8. COTR Handbook Was Outdated**

We recommend that the Contracts and Purchasing Center Director:

- 8a. Update the Contracting Officers Technical Representative Handbook or replace it with other current or more relevant Contracting Officers Technical Representative guidance.
- 8b. Implement internal controls and written procedures to ensure that the new Contracting Officers Technical Representative guidance is periodically updated as needed.

**Management Response:**

The CPC will determine the value of the supplemental handbook and will either remove it or update it to reflect current guidance to the Contracting Officers Technical Representative in execution of his/her duties. The Contracts and Purchasing Center will update its internal controls concerning Contracting Officers Technical Representative training to reflect the latest requirements per IAW FAC-COTR.

## **9. Did Not Implement Recommendations From Prior OIG Audit**

We recommend that the Contracts and Purchasing Center Director:

- 9a. Implement all audit recommendations made in the OIG audit report 04-AUD -10-20 dated November 4, 2005, and report the corrective actions in accordance with FCC and OIG policy and procedures.
- 9b. Implement internal controls and written procedures to ensure that all recommendations resulting from prior audits are implemented on a timely basis in accordance with OMB Circular A-50.

**Management Response:**

Management agrees that some of the audit recommendations in the prior OIG audit report were not implemented by the Contracts and Purchasing Center. Going forward, management will implement internal controls and written procedures to ensure that all

recommendations resulting from prior audits are implemented on a timely basis in accordance with OMB Circular A-50.