

**Federal Trade Commission  
Office of Inspector General**



**Audit of Federal Trade Commission  
Acquisition Planning Activities**

**OIG Report No. AR-18-05    September 28, 2018**






Office of Inspector General

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

September 28, 2018

**MEMORANDUM**

**FROM:**   
Andrew Katsaros  
Acting Inspector General

**TO:** David Robbins  
Executive Director

**SUBJECT:** Audit of Federal Trade Commission Acquisition Planning Activities (Report No. AR-18-05)

Attached is our final report on the results of our audit of the Federal Trade Commission's (FTC) acquisition planning activities. The objective of our audit was to determine if the FTC properly plans and awards contracts in accordance with applicable laws, regulations, and policies.

We found that the FTC's Financial Management Office (FMO), Acquisitions Division, made improvements to the acquisition process during the course of our audit. Still, several opportunities exist to further develop processes and enhance the administration of contracts, including: (1) improving controls over contract file documentation; and (2) strengthening legal review processes embedded into the acquisition process.

FTC's response to the draft report's findings and recommendations is included as Appendix H. The response reflects that the FTC concurred with the report's two recommendations.

Please submit to us an action plan that addresses the recommendations in this report within 60 calendar days. This final report will be posted on the OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 and 8M).

We greatly appreciate the cooperation and courtesies extended to us by the FMO and Acquisitions Division teams during our audit. If you have any questions or concerns regarding this report, please contact me at 202-326-2355, or by email at [akatsaros@ftc.gov](mailto:akatsaros@ftc.gov).

Attachment

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# PRODUCT HIGHLIGHTS

## Our Objective

The objective of this audit was to determine if the FTC properly plans and awards contracts in accordance with applicable laws, regulations, and policies.

## What We Found

We found that the Federal Trade Commission (FTC or Commission), Financial Management Office (FMO), Acquisitions Division, made improvements to the acquisition process during the course of our audit. Still, several opportunities exist to further develop processes and enhance the administration of contracts, including: (1) improving controls over contract file documentation; and (2) strengthening legal review processes embedded into the acquisition process.

## Why We Performed This Audit?

In FY 2017, the FMO Acquisitions Division faced several challenges in executing its mission of providing contract and acquisition services to the FTC. These challenges included significant turnover of key personnel, budget constraints, and the Commission's continuously evolving information technology and expert witness needs. Compounding these challenges is the projection by FTC leadership of an increase in the need for expert witnesses, which will create additional demands on the Division. Overall, the operations tempo and various processes necessary for executing acquisitions supporting the Commission's objectives represent continuing challenges.

Previous OIG reports identified challenges to the efficiency and effectiveness of FTC contractor-supported programs, including work conducted on the Office of the Chief Information Officer and on Information Technology Governance Practices. Issues related to acquisition planning and management of contracts are also included in the FTC's FY 2017 and FY 2016 Management Challenges reports. The OIG determined that the acquisition program is among the high-risk areas within the FTC based on issues identified in these products; inherent risks within the acquisition program; and total dollars obligated for contract services.

## What We Recommend

To further develop the Commission's acquisition processes, improve efficiency, and provide reasonable assurance that contract activities adequately address required regulations, we recommend that the FTC Executive Director ensure that FMO:

1. Develop a policy that clearly identifies the documents required to be in contract files to constitute a complete history of the transaction, including records normally contained in the contract file as identified in FAR § 4.803; and
2. Develop requirements for a systematic legal review process for acquisitions that meet identified conditions.

## BACKGROUND

The Federal Trade Commission (FTC) is an independent federal government law enforcement and regulatory agency led by five presidentially appointed Commissioners with the authority to promote consumer welfare through its jurisdiction over both consumer protection and competition issues. The FTC prevents business practices that are anti-competitive, deceptive, or unfair to consumers, while also enhancing informed consumer choice and public understanding of the competitive process. Specifically, the FTC advances competition and consumer interests by sharing expertise with other federal agencies and state legislatures; through vigorous law enforcement; through development of policy and research tools; and through hearings, workshops, and conferences. The Commission enforces a wide variety of consumer protection laws, including the Telemarketing Sales Rule, the Pay-Per-Call Rule, and the Equal Credit Opportunity Act.

The FTC obligates funds to improve the effectiveness of management operations; implement programs that enable management to recruit, develop, and retain a highly qualified workforce; improve agency capacity by creating more resilient IT systems and services; and invest in new technologies to advance the agency's mission. Since FY 2015, contracted services have represented between 20 and 23 percent of the FTC's total budget request. Approximately 38% of the FTC's FY 2017 contracted obligations were awarded using the Time & Material or Labor Hour pricing structure. These types of contracts carry an inherent risk, as they provide no positive profit incentive for contractors to control costs and have been identified as high-risk by the Office of Management and Budget (OMB).

**Table 1: FTC Annual Budget Versus Obligations for Contracted Services**

Budgeted Obligation Amounts	FY 2017	FY 2016	FY 2015	FY 2014
Total FTC Annual Budget Available <sup>1</sup>	\$348 Million	\$353 Million	\$327 Million	\$362 Million
Obligations on Contracted Services <sup>2</sup>	\$70.6 Million	\$81 Million	\$65.6 Million	\$104 Million
Contracted Services as Percentage of Total Budget	20%	23%	20%	29%

Source: The FTC's Congressional Budget Justifications and Federal Procurement Data System – Next Generation (FPDS-NG)

### A. FTC ACQUISITIONS

The FTC obtains contracted services to support a wide array of needs, including the maintenance of databases, legal research, and expert witness services.<sup>3</sup> Information technology (IT) needs, information retrieval, and management and professional services, to include consulting, expert witness services, and administrative support, comprise the majority of FTC contract procurements.

<sup>1</sup> The total annual budget figures are derived for FTC's FY 2016, FY 2017, FY 2018, and FY 2019 Congressional Budget Justifications.

<sup>2</sup> Contract service obligations were obtained from FPDS-NG.

<sup>3</sup> As part of the FY 2019 Congressional Budget Justification, the FTC requested a budget increase of \$3,383,000 to meet the escalating costs of expert witness contracts.

**Table 2: FTC Obligations by Expenditure**

<b>FTC Dollars Obligated by Expenditure<sup>4</sup></b>		
<b>Expenditure</b>	<b>FY 2017</b>	<b>FY 2016</b>
Management and Professional Support Services	\$ 55,788,169	\$ 67,211,840
Information Retrieval Services	2,399,788	2,517,305
Software	1,572,717	3,843,006
IT Equipment	2,293,975	1,393,600
Telecommunications	2,053,053	53,438
Operations and Maintenance of Equipment	1,334,202	2,373,153
Repairs and Maintenance	1,437,731	1,472,421
Rental Payments and IT Equipment Leases	1,624,563	421,852
Training & Conference Costs	668,212	561,001
Court Reporting Services	499,800	584,146
Furniture and Fixtures	199,841	360,161
Miscellaneous Services	523,682	125,258
General Supplies	125,953	76,943
Subscriptions & Training Materials	62,318	45,418
<b>Total</b>	<b>\$ 70,584,003</b>	<b>\$ 81,039,542</b>

Source: FPDS-NG

All contracted acquisitions of goods and services are administered by the Financial Management Office’s (FMO) Acquisitions Division under the requirements of the Federal Acquisition Regulation (FAR).<sup>5</sup> The FTC obligates approximately 22% of its annual appropriation in the form of contracts, delivery orders, purchase orders, and task orders against indefinite quantity contracts and blanket purchase agreements. During FYs 2016 and 2017, the FTC obligated \$151.6 million (net) and executed 1,573 procurement related actions.<sup>6</sup> The actions included new contracts awarded in FY 2016 and FY 2017, orders placed against new contracts, and orders placed against contracts existing prior to FY 2016. Appendix F identifies the value of FTC obligations within the scope of our audit as well as for fiscal years 2016 and 2017.

## **B. THE FTC’S ACQUISITIONS DIVISION**

The Acquisitions Division manages the capabilities of the private sector to provide the best value for the FTC and ensure compliance with the FAR. Procurement authority rests with the FTC Chairman and is delegated to the FTC Executive Director (ED), the Chief Financial Officer (CFO), and the head of the Acquisitions Division (Assistant CFO). The Acquisitions Division assists Commission leadership with the establishment of procurement policy and implementation of acquisition procedures consistent with Federal policy; helps internal customers with the

<sup>4</sup> Budget Object Class defines budget outlays (Expenditures) by the personal and contractual services obtained, capital assets acquired, and other charges and payments made by the government.

<sup>5</sup> The FAR contains the principal set of rules, standards, and requirements used by federal agencies for the acquisition of goods and services with the use of appropriated funds. The FAR governs and informs the “acquisition process” used by federal agencies to obtain goods and services necessary to accomplish their mission.

<sup>6</sup> Note that many of these procurement actions were administrative and did not result in an obligation of funds. In FY 2017 and FY 2016, the FTC executed gross obligations of \$169,902,297 and deobligated \$18,278,751 over the same period. Net obligations equaled \$151,623,751.



requisition process; provides guidance on developing contract Statements of Work (SOWs); and oversees contract preparation, award, and administration.

Acquisitions Division staff include Contracting Officers (CO), which are responsible for ensuring the performance of all necessary contract actions, including soliciting, awarding, and terminating contracts. COs are allowed a wide latitude to exercise business judgment; however, they must ensure that contract actions meet all requirements of law, regulations, and applicable policies and procedures.<sup>7</sup> The CO is ultimately responsible for the execution and administration of contracts, including the appointment of the Contracting Officer's Representatives (COR).<sup>8</sup>

The Acquisitions Division staff also includes Contract Specialists that assist COs by drafting contracts, creating contract files, coordinating with requesting offices to complete acquisition planning documents, and conducting all administrative activities leading up the contract award. Contract Specialists also perform post-award activities in support of the CO.

### C. THE FTC ACQUISITION PROCESS

The Acquisitions Division collaborates with the requesting bureaus and program offices when contracting needs are identified and works with bureaus and offices to develop requirements and refine key planning documents. The Acquisitions Division requires the development of a requirements package for procurements to document the overall acquisition approach. The requesting office is responsible for preparing the requirements package with guidance from the Acquisitions Division.<sup>9</sup> The general FTC acquisition process is summarized in Appendix E:

## FINDINGS AND RECOMMENDATIONS

The FTC Office of Inspector General (OIG) conducted a performance audit of the FTC's acquisition planning of contract awards. Our audit focused on the FTC's acquisition planning for high-risk contracts, which included sole source procurements, expert witness contracts, high-dollar value procurements, and other contracts having unique or complex challenges.<sup>10</sup> Our audit covered contracts awarded by the Bureau of Competition (BC), Bureau of Consumer Protection (BCP), Office of Administrative Services (OA), FMO, and OCIO, which collectively account for

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<sup>7</sup> See FAR 1.602.

<sup>8</sup> A COR is an individual trained, certified, designated and authorized in writing by the CO to perform specific technical or administrative functions on behalf of the CO. CORs are generally located within the FTC bureau or office requesting assistance from the Acquisitions Division to obtain contracted services. CORs are certified at differing levels to handle contracts of varying complexity.

<sup>9</sup> A Requirements Package is the documentation required for the CO to act upon a request to either award a new contract or modify an existing contract. A Requester shall include one or more of the following in the requirements package as required: 1) Performance Work Statement (PWS), Statement of Work (SOW), or Statement of Objectives (SOO), 2) Independent Government Cost Estimate (IGCE), 3) Market Research Report, 4) Privacy Threshold Analysis (PTA), 5) Justification for Other than Full and Open Competition (if required), and 6) Brand Name Justification (if required).

<sup>10</sup> Both OMB as well as the Government Accountability Office include contracts with the following attributes as high-risk contracts: (1) sole-source contracts, (2) cost-reimbursement contracts, and (3) time-and-materials/labor-hour (T&M/LH) contracts.

the majority of the FTC's acquisition spending.<sup>11</sup> Additional information on our objective, scope, and methodology can be found in Appendix A.

We found that the Acquisitions Division made notable advancements to the overall planning and procurement of contracts during the course of our audit. Specifically, professional support and guidance available to FTC program offices vastly improved over the past three years. For example, in September 2017, the Division added procedures on the Internal Review Process of Contracts, Market Research, and Acquisition Plans and updated its policy manual to ensure compliance with the FAR. The Acquisitions Division also provided tools and templates that guide program offices throughout the procurement process and made enhancements to its website.

The results of our audit also show that opportunities exist to improve acquisition planning and pre-award administration of contract acquisitions. Specifically, we found a lack of policy guidance on the overall structure of contract files and legal reviews of contract awards. The implementation of these policies could mature the overall acquisition process and assist in addressing compliance with acquisition regulations. Our report includes recommendations designed to: (1) strengthen the FTC's policies over the acquisition process, (2) improve the FTC's contract file documentation, and (3) formalize the FTC's legal review of contracts prior to award.

## **A. CONTRACT FILES LACKED SUPPORTING DOCUMENTATION**

The OIG reviewed fifteen contract files pursuant to its audit. We found that some of the files lacked key documentation to support the acquisition process. Specifically, contract files were missing documentation of evidence of acquisitions plans. Three of the fifteen contract files we reviewed did not contain documented acquisition plans. Four contract files also lacked COR designation letters making it difficult to determine whether the designated CORs were certified. The complete results of our testing are included in Appendix B: Results of Contract File Testing and Appendix C: Audit Exceptions by Contract File.

We also identified opportunities to mature the acquisition process and enhance the documentation surrounding the administration of high-risk contracts. Currently, the Acquisitions Division lacks a documented comprehensive strategy for addressing high-risk contracts. Such a strategy would enhance the risk management focus of the Acquisitions Division and promote successful outcomes of major projects.

With respect to the FTC's contract with Leidos Management Systems Designers, Inc., we noted that the contract file contained no documentation to support certain acquisition planning and pre-award decisions.<sup>12</sup> As a result, this contract – which began in FY 2011 and can potentially

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<sup>11</sup> BC, BCP, OA, FMO, and OCIO account for approximately 89% of contract obligations made during the scope of the audit (April 1, 2016 through September 30, 2017). Appendix D contains a breakdown of all contract obligations awarded by FTC office and bureau for FY 2016 and FY 2017.

<sup>12</sup> The Leidos Contract (FTC11G1100) originally went into effect in September 2011 to build and operate the National Do Not Call Registry (DNC), the Consumer Sentinel Network (CSN), and to make significant contributions to the Consumer Response Center (CRC). The three programs collectively referred to as Sentinel Network Services play a vital role to the strategic objectives of the FTC's consumer protection mission. In FY 2017, approximately \$13.3 million was obligated to Leidos, accounting for 18% of the total annual FTC obligation for contracts.



continue to as late as FY 2020 – was awarded without documentation supporting the business reasons for such an extended period. Current leadership of the Acquisitions Division inherited the Leidos contract and did not play a role in the contract award. Leadership within the Acquisitions Division has been aware of the past decisions made as well as issues associated with the contract file.

Opportunities for an improved acquisition strategy could include: (1) developing procedures specific to complex high-value contracts and contracts critical to the FTC’s success; (2) identifying and maintaining an inventory of high-risk contracts; (3) maintaining a heightened awareness of the milestones and challenges to high-risk contracts; and (4) taking aggressive action to address issues. Without such a strategy – particularly for initial procurement decisions – the FTC is at risk of not devoting proper attention to acquisitions prone to fraud, waste, and abuse. Implementation of a documented risk strategy would also help align acquisition activities with the Commission’s mission and promote effective management of the overall process.

The FAR requires the inclusion of documentation in the file that can: (1) provide a complete history of all procurement-related actions; and (2) support informed decisions at each step in the acquisition and contract oversight process. The Acquisitions Division could not demonstrate that it has specific policies in place regarding how contract files should be structured.

FAR § 4.801 – *Government Contract Files, General*, states:

documentation in the files shall 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 reviews and investigations...

FAR § 4.803 – *Contents of Contract Files*, states:

The following are examples of the records normally contained, if applicable, in contract files...

- Acquisition planning information, ...
- Justification for type of contract, ...
- Evidence of availability of funds, ...
- Source selection documentation ...

Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (“the Green Book”), states:

Accurate and timely recording of transactions and events

Transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from the initiation and authorization through its final classification in summary records....

## Appropriate documentation of transactions and internal control

Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination....

The Acquisitions Division has made vast improvements in the development and implementation of a system that supports compliant acquisition practices; however, we noted several instances of contract files missing key documentation required to support the procurement and administration of contracts. We believe the lack of documentation in contract files occurred due to the absence of key policies and effective socialization of existing policies. As a result, some contract files did not contain key documents of all procurement-related actions throughout the acquisition process. Current Acquisitions Division policies do not clearly define contract file requirements, leaving contract files lacking appropriate documentation at an increased risk of undetected fraud, waste, and abuse.

### **B. THE FTC IS AT RISK OF COSTLY CONTRACT DISPUTES WITHOUT A CONSISTENT CONTRACT LEGAL REVIEW PROCESS**

Currently, there is no FTC requirement governing the legal review of contracts. It is common for federal agencies to establish and implement a process of legal review with documented policies, including policies addressing conditions that would require a legal review to be conducted on a contract procurement. Examples of these conditions include the value of procurements (e.g., all awards exceeding \$100,000), procurements with known problem areas, contract termination actions, and pre- or post-contract award errors in bids or offers. Further, the myriad of legal requirements that must be met for certain procurements – including justifications for sole source selections – necessitate a need for such reviews to guard against costly contract disputes.<sup>13</sup>

The FTC currently does not have a documented process addressing the legal review of contract acquisitions in its existing policies. As a result, although legal reviews may be performed on relevant acquisitions, the FTC has no assurance that these will be done routinely and consistently. Based on our tests of contract files, process walkthroughs, and discussions with officials involved in the acquisition function, we did not find evidence of a discernable structured process and or approach to the legal review of contract actions. Our discussions throughout the audit also revealed that Acquisitions Division officials view the process of legal review as an important enhancement that could be made to the FTC procurement function. The FTC cannot consistently minimize the potential for costly disputes, protests, delays, and litigation arising from procurement actions without a systematic process of contract legal review.

FAR § 4.803, *Contents of Contract Files*, identifies evidence of legal review as an example of a record generally contained in federal contract files.

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<sup>13</sup> See FAR § 6.303, *Justifications*.

Without an effective process of legal review, any contract actions with disputes, errors, or noncompliance with requirements can unnecessarily jeopardize FTC resources. A systematic approach of legal review can help ensure contract files have critical supporting documentation.

### **Recommendations**

We recommend that the FTC Executive Director:

1. Develop a policy that clearly identifies the documents required to be in contract files to constitute a complete history of the transaction, including records normally contained in the contract file as identified in FAR § 4.803; and
2. Develop requirements for a systematic legal review process for acquisitions that meet identified conditions.

## **SUMMARY OF AGENCY RESPONSE AND OIG COMMENTS**

FTC Management's response to our report is included in Appendix H. FTC Management concurs with the findings and two recommendations contained within this audit report, and FMO Management plans to work with OGC to implement Corrective Action Plans (CAPs) that address the recommendations. CAPs will be developed within 60 days of the issuance of this audit report. The agency will also continue to explore avenues to meet resource demands, constantly evaluate the mix of federal and contractor resources, and leverage existing relationships with other federal agencies to obtain support when needed.

## APPENDIX A: OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this audit was to determine if the FTC properly plans and awards contracts in accordance with applicable laws, regulations, and policies. To accomplish our objective, we determined whether the FTC has:

1. adequate policies and procedures in place to support acquisition planning; and
2. sufficiently documented the considerations and overall approach of procurements in written acquisition plans.

We reviewed pertinent authorities, including the Federal Acquisition Regulation (FAR), Office of Management and Budget Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Controls, the Government Accountability Office (GAO) Standards for Internal Control in the Federal Government (The GAO Green Book), internal FTC policies, and the Financial Management Office (FMO) Acquisitions Division policy memoranda.<sup>14</sup>

For this audit, we assessed internal controls that impact acquisition procedures related to planning, market research, and funding validation. Further, we assessed acquisition policies and the FTC's internal communication process between the program offices and the Acquisitions Division.

We performed procedures necessary to determine whether acquisition actions were sufficiently supported with documentary evidence; processes were in place to reasonably ensure that appropriate acquisition planning occurs; and contracts were awarded to vendors based on an appropriate process conforming to required criteria. We conducted walk-throughs of the acquisition process and interviews with officials from FMO's Acquisitions Division to document our understanding of the processes in place. Further, we surveyed personnel responsible for acquisition planning activities including Contracting Officer's Representatives (CORs) from Bureaus and Offices across the FTC, as well as reviewed prior OIG reports to identify known issues.<sup>15</sup>

Based on our analysis of contracting activity and assessment of related risks, we identified the population of high-risk contracts and selected 15 award files for review. We tested contract awards for compliance with required regulations and policies ranging from the acquisition planning, source selection, required justifications, and documentation of procurements. The sampled contract files represent approximately \$37.6 million of contract actions (e.g., contracts, purchase orders, and blanket purchase agreements) obligated by the Acquisitions Division

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<sup>14</sup> The GAO Green Book provides the overall framework for organizations to establish and maintain controls that facilitate compliance with federal laws, regulations, and program compliance requirements.

<sup>15</sup> FTC Acquisition matters are included in the *FY 2017 FTC Management Challenges* (October 2017) and *FY 2016 FTC Management Challenges* (October 2016). Discussion on acquisition-related issues are also included in the FTC OIG Report No. ER 16-03, *Opportunities Exist to Accelerate Maturation of the FTC's Information Technology Governance Practices* (September 2016), and Report No. ER 16-02, *OIG Evaluation of the Federal Trade Commission's Office of the Chief Information Officer* (December 2015).

between April 2016 and September 2017. This represented 35% of contract dollars awarded by the Commission during this period (see Table 3).

We judgmentally sampled and reviewed 15 “high-risk” contract files to assess the documented evidence of key steps. In selecting specific contracts for review, we considered the following factors: (1) type of contract pricing, (2) extent that contracts were competed, (3) solicitation procedures, (4) contract dollars obligated, and (5) contract awards having a significant impact on FTC strategic objectives.<sup>16</sup> Our sample focused heavily on Time and Material and Labor-Hours contracts. As part of our audit, we examined contract files for the following documentation:

1. **The Contracting Officer’s Representative Designation Letter** – Contracting officers are required to issue a letter to the COR that identifies the representative’s specific duties, authorities, responsibilities, and limitations.
2. **Acquisition Plans** – The requesting office develops an acquisition plan for contracts to document the overall strategy for managing the acquisition to fulfill FTC’s needs in a timely manner and at a reasonable cost.
3. **Independent Government Cost Estimate** – The COR/requesting office develops a projection of labor, material, travel costs based on historical data or industry standards for the procurement.
4. **Market Research** – The Contracting Officer and COR perform market research to determine if the government’s needs can be met through commercial contracting and assess all sources available in the marketplace with an emphasis on small and minority-owned businesses.
5. **Budget Verifications** – The FMO budget division determines whether the funds are available, then generates, approves, and releases funds in support of the requisition.
6. **Source Selection Plans** – The Acquisitions Division develops a source selection plan to obtain the best value source to fulfill the FTC’s needs. The plan documents the FTC’s intention to organize and conduct the evaluation and analysis of proposals and to select a best value source.
7. **Excluded Parties List System** – Prior to awarding a contract, the Acquisitions Division must review the System for Award Management (SAM) to search for any contractor exclusions.
8. **Complete Performance Work Statement / Statement of Work** – The requesting employee develops a statement of work or a description of the goods, services, technical objectives, and requirements for each acquisition.
9. **Justification for Contracts Awarded Noncompetitively** – When requesting a noncompetitive procurement, the requesting office is required to provide a written justification containing sufficient facts and rationale to justify the use of noncompetitive procurement procedures.

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<sup>16</sup> Examples of contractors identified as having a significant impact on FTC included Leidos Management Systems Designers, Inc. and Innovative Discovery, LLC. Leidos operates the National Do Not Call Registry (DNC), the Consumer Sentinel Network (CSN), and makes significant contributions to the Consumer Response Center (CRC). The three programs comprise the Sentinel Network Services. The Sentinel Network Services are vital to the strategic objectives of consumer protection. Innovative Discovery LLC provides Relativity, an electronic discovery litigation support service. FTC investigations (other than those conducted by the OIG) and consumer protection cases are either supported or directly enhanced by Relativity.

10. **Determination & Findings** – The Contracting Officer is required to execute a determination and findings (D&F) prior to the award of the Time and Material as well as a Labor Hours contract. The D&F shall set forth enough facts and circumstances to clearly and convincingly justify the specific determination made.
11. **Price Review of Contractors' Proposals** – The contract specialists review the contractors' proposed prices/costs to ensure the amounts are appropriate and the costs are accurate, as well as fair and reasonable.
12. **Technical Review of Contractors' Proposal** – The technical evaluation panel evaluates the technical aspects of the contractors' proposals.
13. **Expert Witness Transmittal Memorandum** – The requesting office details the need for an expert witness contract, urgency driving the need, the market research conducted, fees for provided services, and background on the expert.
14. **Award Summary** – The document provides a description and details the service or need to be acquired, the type of contracting action, the technical and price analysis, and contracting officer's award decision.

The scope of our audit included contracts with procurement actions (i.e., contracts, purchase orders, blanket purchase agreements, delivery orders) awarded and executed by the Acquisitions Division between April 1, 2016 and September 30, 2017.

**Table 3: Breakdown of Contracts Awarded and Sampled by Contract Type**

Contract Type	(a) Population of Contract Actions	Contracts Sampled	Population of Contract Actions in Dollars	Sampled Contract Actions by Dollars	Percentage of Contract Dollars Tested Versus Contract Dollars Awarded
Blanket Purchase Agreement (BPA)	84	1	\$ 7,190,508	\$ 817,900	11%
Purchase Orders (PO)	548	6	15,229,390	5,639,089	37%
Delivery Orders (DO)	478	2	62,798,040	22,124,822	35%
Contracts	140	6	23,862,723	9,021,225	38%
Indefinite Delivery Contract	20	0	(466,659)	-	-
<b>Totals</b>	<b>1,270</b>	<b>15</b>	<b>\$ 108,614,002</b>	<b>\$ 37,603,036</b>	<b>35%</b>

a - Contract Actions between April 1, 2016 – September 30, 2017 based on amounts reported to Federal Procurement Data System – Next Generation ([www.fpds.gov](http://www.fpds.gov))

The audit work was conducted at the FTC Headquarters and Constitution Center in Washington, DC.

We used the following criteria in the performance of our audit:

- Federal Acquisition Regulation (FAR) (Title 48, CFR)
- Office of Federal Procurement Policy Memoranda
- GAO, Standards for Internal Control in the Federal Government
- OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control
- FTC internal policies
- FMO Acquisitions Division policy memoranda



We conducted this performance audit from July 2017 through June 2018 in accordance with generally accepted government auditing standards. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# APPENDIX B: RESULTS OF CONTRACT FILE TESTING

Acquisition Step	Documented Evidence of Compliance with Key Acquisition Steps		
	Yes	No	Not Applicable
<b>Administration</b>			
The COR Designation Letter	11	4	0
<b>Acquisition Planning</b>			
Acquisition Plans	4	3	8
Independent Government Cost Estimate	12	2	1
Market Research	13	2	0
<b>Pre-award</b>			
Budget Verifications	13	2	0
Source Selection Plans	1	2	12
Excluded Party Listing System	13	2	0
Complete Performance Work Statement / Statement of Work	15	0	0
Justification for Other Than Full and Open Competition	12	0	3
Determination & Findings	11	1	3
Price Review of Contractors' Proposals	13	2	0
Technical Review of Contractors' Proposal	13	2	0
Expert Witness Transmittal Memorandum	7	0	8
Award Summary	6	2	7

## APPENDIX C: AUDIT EXCEPTIONS BY CONTRACT FILE

Contract PIID	Vendor	Start of Contract Period	Total Number of Exceptions Per Contract PIID	COR Designation Letter	Acquisition Plans	Market Research	Independent Government Cost Estimate	Budget Verifications	Source Selection Plans	EPLS	Determination & Findings	Price Review of Contractors' Proposals	Technical Review of Contractors' Proposal	Award Summary
FTC11G1100	Leidos Management Systems Designers, Inc.	8/30/2011	10	X	X	X	X	X	X	X		X	X	X
FTC12G2128	URS Federal Services, Inc.	8/30/2012	9		X	X	X	X	X	X		X	X	X
FTC15L5005	Seventh Sense Consulting, LLC	5/6/2015	0											
FTC15H5147	Noll, Roger G	8/13/2015	0											
FTC16H6063	ICF Incorporated, LLC	4/1/2016	2		X <sup>a</sup>						X			
29FTC116P0011	Fond Rozvytku Konkurents II	6/10/2016	0											
29FTC116P0038	Keystone Strategy	9/26/2016	0											
29FTC116C0098	Heartland Energy Partners, LLC	9/26/2016	0											
29FTC117P0001	CRA International, Inc.	10/19/2016	0											
29FTC117P0008	Bates White, LLC	11/15/2016	0											
29FTC117P0037	Compass Lexecon, LLC	3/16/2017	0											
29FTC117P0049	Cornerstone Research, Inc.	4/28/2017	0											
29FTC117F0056	For The Record, Inc.	5/9/2017	1	X										
29FTC116P0010	Global Economics Group, LLC	8/30/2017	1	X										
29FTC117C0237	Innovative Discovery, LLC	9/29/2017	1	X										
Total Exceptions by Acquisition Step			24	4	3	2	2	2	2	2	1	2	2	2

X<sup>a</sup> - The contract file included a Streamlined Acquisition Plan. The award is greater than the \$1 million threshold requiring a formal acquisition plan according to FMO AD 4025, Policy Memorandum Formal Acquisition Plans.

## APPENDIX D: TOTAL FTC CONTRACT OBLIGATIONS FOR FISCAL YEARS 2017 AND 2016

FTC Dollars Obligated by Office or Bureau		
Organization	FY 2017	FY 2016
Office of the Chief Information Officer	\$ 21,638,010	\$ 37,817,389
Bureau of Consumer Protection	15,655,568	11,395,171
Bureau of Competition	12,257,790	11,508,267
Administrative Services Office	8,744,910	6,560,614
Financial Management Office	4,500,573	5,925,261
Regional Offices	2,061,040	3,071,815
Records and Filings Office	2,955,926	2,290,673
Office of Public Affairs	1,172,388	697,636
Bureau of Economics	258,737	481,035
Human Capital Management Office	438,742	595,400
Office of Inspector General	292,973	326,894
Office of International Affairs	312,879	251,676
Office of the Secretary	93,854	36,803
Office of the Executive Director	140,615	35,495
Office of the General Counsel	60,000	45,413
<b>Total</b>	<b>\$ 70,584,003</b>	<b>\$ 81,039,543</b>

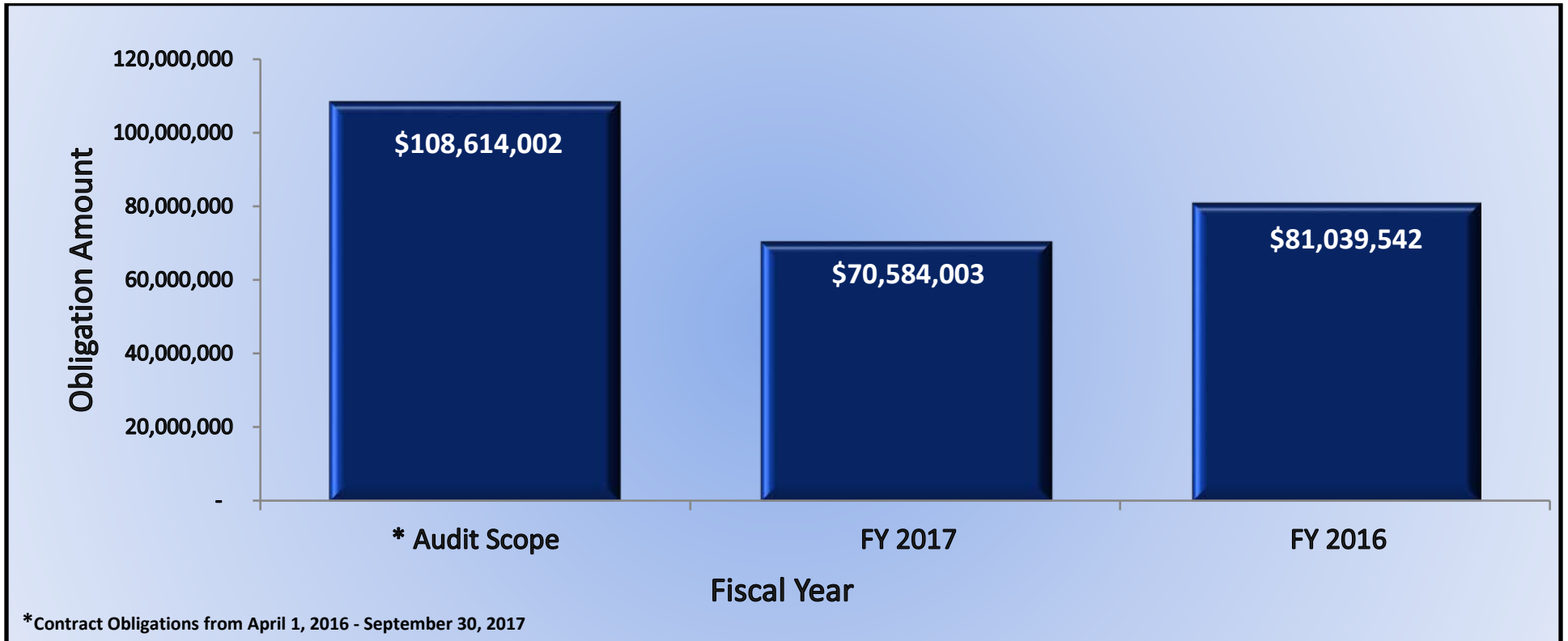
SOURCE: FPDS-NG

## APPENDIX E: FTC'S GENERAL ACQUISITION PROCESS

Acquisition Step	Description of Acquisition Step
<b>1. Recognition of the Need for Goods or Services</b>	The acquisition planning and procurement process begins with the recognition of a need for goods or services. This is generally done by a "requester" within a bureau/program office of the FTC. Requesters are individuals within the organization that submit procurement requests and any other procurement package documentation required to execute or modify a contract.
<b>2. Creating the Requirements Package (RP)</b>	Requesters are responsible for creating the requirements package and clearly defining the requirements needed with the requested acquisition as well as any other procurement package documentation required to execute or modify a contract.
<b>3. Requirement Validation/Funding Approval</b>	The requirements package must be validated and funding approved as part of the requisition process in Contract Lifecycle Management (CLM) or Comprizon.
<b>4. Market Research</b>	Requesters shall conduct research, draft, and submit a market research report to the COR and CO as one piece of their RP for new contracts or orders. To conduct market research, requesters can contact knowledgeable individuals in Government and industry regarding market capabilities; review the results of recent market research conducted on similar requirements; query Government-wide databases of contracts intended for use by multiple agencies available at Interagency Contract Directory; and review catalogs and other available literature published by manufacturers, distributors, and dealers.
<b>5. Requirements Package</b>	COs will require a complete RP to obtain a new contract or modify an existing contract. Requesters consult with their assigned CO to determine the documentation required for the request. Additionally, requesters should consult guidance, templates and sample documents available on the Acquisitions Division website.
<b>6. Submission</b>	All modifications to contracts should be initiated and awarded in the system in which the initial award is housed. All procurement requests are submitted electronically either in Comprizon or CLM with all relevant elements of the RP.
<b>7. Pre-Award Process</b>	The pre-award process includes all the activities from receipt of the RP through acquisition planning, solicitation, and evaluation.
<b>8. Contract Award</b>	Pre-award activities conclude with the contract award and the obligation of funding. The CO is responsible for all activities related to contract award, including ensuring the appropriate documentation is contained in the contract file; as well as award notification and debriefing to successful offeror(s), unsuccessful offeror(s) and other interested parties. The Requester shall participate in award activities as required by the CO.

Source: The FTC Administration Manual Chapter 2: Section 300 – Acquisition

## APPENDIX F: FTC CONTRACT OBLIGATIONS BY AUDIT SCOPE, FY 2017, AND FY 2016



Source: Federal Procurement Data System – Next Generation ([www.fpds.gov](http://www.fpds.gov))



## APPENDIX G: ACRONYMS AND ABBREVIATIONS

BC	Bureau of Competition
BCP	Bureau of Consumer Protection
BPA	Blanket Purchase Agreement
CFO	Chief Financial Officer
CLM	Contract Lifecycle Management
CO	Contracting Officer
COR	Contracting Officer's Representative
D&F	Determination and Finding
DO	Delivery Order
FAR	Federal Acquisition Regulation
FMO	Financial Management Office
FPDS-NG	Federal Procurement Data System - Next Generation
FTC	Federal Trade Commission
GAO	Government Accountability Office
IT	Information Technology
OA	Office of Administration
OCIO	Office of the Chief Information Officer
OGC	Office of the General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
PO	Purchase Order
RP	Requirements Package
SAM	System of Acquisition Management

# APPENDIX H: MANAGEMENT RESPONSE

**Management Response**  
**Office of the Inspector General Draft Report:**  
**Audit of Federal Trade Commission Acquisition Planning Activities**

Management concurs with the findings, conditions and two recommendations contained in the Office of the Inspector General's (OIG) Draft Report regarding the Audit of the Federal Trade Commission's Acquisition Planning Activities.

As noted in the Draft Report, the Financial Management Office (FMO) has made notable advancements in support and guidance to program offices, policies and procedures that help ensure FAR compliance, and providing tools and templates to guide program offices throughout the acquisition process. FMO has also made great strides to gain the best resources available to meet the operational demands placed on its Acquisition Division. The agency will continue to explore creative avenues to meet resource demands that are unique to small federal entity acquisition organizations; the agency constantly evaluates the mix of federal and contractor resources, while at the same time leveraging relationships with other federal agencies to obtain additional support through details when needed. The agency is also pursuing a shared service provider relationship, through which the agency could obtain "surge" acquisition support to address changing workload demands.

The Draft Report contains two recommendations that would enhance the compliance and further mitigate the risks inherent with the Federal acquisition process. FTC Management concurs with the recommendations:

1. Develop a policy that clearly identifies the documents required to be in contract files to constitute a complete history of the transaction, including records normally contained in the contract file as identified in FAR § 4.803; and
2. Develop requirements for a systematic legal review that meet identified conditions.

FMO will work closely with the Office of General Counsel to implement Corrective Action Plans (CAPs) that address the OIG recommendations. The CAPs will be developed within 60 days of the issuance of the Final OIG Audit Report regarding this matter. The CAPs will include individual milestones and completion dates, as well as an overall completion date for each recommendation.

FTC Management would like to recognize and thank the Inspector General for the professionalism and cooperation exhibited by the OIG staff during this audit.