United States Department of Agriculture

Office of Inspector General

Rural Development Procurement Controls

Audit Report 50601-0001-41

March 2014

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What Were OIG's Objectives

The objective of our audit was to determine if goods and services were being procured efficiently and effectively. We assessed if RD (1) selected contractors and prepared procurement contracts in accordance with FAR, (2) ensured funds were correctly accounted for and used in the proper period, (3) adequately monitored contract funding and unliquidated balances, and (4) verified that deliverables were met in accordance with the contracts' terms and provisions.

What OIG Reviewed

During FYs 2009-2011, RD had 146 procurement contracts, totaling $434 million. Of these, we reviewed 4 active contracts, totaling $232 million, and 10 completed contracts, totaling $27.6 million. Also, at the end of FY 2011, 249 unliquidated obligations were inactive for over a year. We reviewed the 5 largest unliquidated obligations, totaling $12.9 million.

What OIG Recommends

RD needs to deobligate over $38 million in unliquidated funds, be more proactive in monitoring contract funding, and perform the required contract closing procedures.

OIG audited RD's oversight of its procurement contracts to determine if it complied with acquisition regulations.

What OIG Found

The Office of Inspector General (OIG) found that during fiscal years (FYs) 2009-2012, Rural Development (RD) funded a contract in the amount of $99.9 million, while expending a total of only $1.6 million during the 4-year period. Although RD deobligated $61.5 million in the third year, it continued its practice of significantly over-funding the contract for the next 2 years. In this case, RD staff requested excessive funds without considering current and prior year expenditures, and the contracting officer authorized the obligation of funds without ensuring the amounts were needed. As a result, the contract was over-funded by almost $36.8 million, which prevented the funds from being allocated to other Government projects or programs.

RD's Procurement Management Division (PMD) did not adequately review unliquidated obligations that were inactive for over a year to ensure funds were still needed. Procurement staff believed that they could wait until the contract was completed to deobligate excess funds. As a result, we identified $1.2 million in excess funds that did not have justification in the contract file to remain obligated. In addition, RD does not have assurance that obligation balances were properly reported, used in the appropriate period, or made available for other uses.

PMD did not close the 10 contracts we reviewed, even though 9 of them were more than 2 years past their completion date. Procurement officials directed staff to focus on awarding contracts in lieu of closing completed ones. As a result, RD does not have adequate assurance that all agreed-upon goods and services were received for contracts totaling over $27.6 million. Further, RD did not deobligate $91,822 in excess funds, which could have been put to better use.

Finally, we found no evidence to indicate that RD (1) improperly selected contractors or prepared procurement contracts outside of Federal Acquisition Regulation (FAR) requirements or (2) used funds in an improper period. RD concurs with our recommendations and has instituted contract and procurement management controls and training.

United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250

DATE: March 24, 2014

AUDIT NUMBER: 50601-0001-41

TO: Doug O'Brien
Acting Under Secretary
Rural Development

ATTN: John Dunsmuir
Acting Director
Financial Management Division

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Rural Development Procurement Controls

This report presents the results of the subject review. Your written response to the official draft report is included at the end of the report. Excerpts from the response and the Office of the Inspector General's position are incorporated into the relevant sections of the report. Based on the information in your written response, we have accepted your management decision on all 10 recommendations.

In accordance with Departmental Regulation 1720-1, final action is to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than the Office of the Chief Financial Officer (OCFO), please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publically available information and will be posted in its entirety to our website (http://www.usda.gov/oig) in the near future.

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Background and Objectives

Background

As an agency in the U.S. Department of Agriculture (USDA), Rural Development's (RD) mission is to support rural communities and enhance the quality of life for rural residents by improving their economic opportunities and community infrastructure. RD provides essential public facilities and services, such as water and sewer systems, housing, health clinics, emergency service facilities, and electric and telephone service. RD also promotes economic development by supporting loans to businesses through institutions, such as banks and credit unions. To accomplish its mission, RD relies on its mission areas—the Rural Housing Service, the Rural Utilities Service, the Rural Business-Cooperative Service, and Operations and Management.

RD acquires goods and services through the Federal Acquisition Regulation's (FAR) simplified acquisition or formal contracting procedures. Under simplified acquisition procedures, RD uses purchase cards, purchase orders, or blanket purchase agreements[1] to procure goods and services that are less than $150,000.[2] Formal contracting procedures are used when the purchase amount exceeds $150,000. During fiscal years (FYs) 2009–2011, RD had 146 procurement contracts, totaling $434 million.

The Procurement Management Division (PMD) is responsible for the majority of RD's procurement activity. PMD selects contractors and awards contracts that provide goods or services for the RD national office. Prior to selecting a contractor, PMD must ensure that the contractor has the appropriate experience and has not been suspended, debarred, or deemed ineligible from participating in Government contracts.[3] After the contract is awarded, PMD monitors the contractor and accounts for any modifications to the original contract.[4] When the contract is completed, PMD closes the contract, which includes ensuring the contractor has provided all goods and services, the Government has received and inspected the goods and services, and all invoices have been paid.[5]

PMD is comprised of two branches, the Policy and Program Management Branch (PPMB) and the Contract Operations Branch (COB). PPMB is responsible for developing and implementing procurement policy, and COB is responsible for reviewing procurement requests, awarding contracts, and ensuring contract performance. Contracting officers working within COB have the authority to enter into, administer, and terminate contracts. They are assisted by contract specialists who support the contracting officers in the procurement process. In addition, the

[1] A purchase card, similar to a commercial credit card, is issued to authorized agency personnel to acquire and pay for supplies and services. A purchase order is a document that specifies the quantity of supplies or scope of services ordered. A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply.
[2] FAR 2.101 (March 2005).
[3] FAR 9.404 (March 2005).
[4] FAR 43.102 (March 2005).
[5] FAR 4.804-5 and 42.708(a) (March 2005).

contracting officers designate contracting officer representatives who are responsible for the technical aspects and day-to-day monitoring of the contract.

To fund a contract, agency personnel estimate how much funding needs to be obligated. They prepare a commitment document and forward it to the contracting officer, who approves the obligation of the funding. Because an obligation is a binding agreement that will result in outlays, funds must be available before obligations can legally be incurred.[6] Several obligations can be tied to a single contract, particularly if it is a multi-year contract. Multi-year contracts are made up of a base year (first year) and option years that can generally be renewed annually for up to 5 years.[7] Options can be exercised after determining that funds are available, the option covers a requirement that fulfills an existing Government need, and the option exercises the most advantageous method of fulfilling that need.[8]

Financial personnel at RD's Fiscal Control Branch collect data from procurement and agency personnel for reporting RD's unliquidated obligations.[9] An unliquidated obligation is the balance remaining from the amount of orders placed or after making any payments for services rendered. Deobligation is the cancellation, downward adjustment, or deletion of a previously recorded obligation. Such adjustments may be attributable to cancellation of a project or contract, price revisions, corrections of amounts previously recorded, or differences between obligations previously recorded and payments made. A deobligation transaction is completed by procurement personnel through a contract modification.

RD maintains its procurement data in two systems: the Integrated Acquisition System (IAS) and the Federal Procurement Data System–Next Generation (FPDS-NG). IAS is a Departmental system designed to ensure that procurement and financial data generated by any program or agency within USDA is contained in a single source with a standardized format for use in any procurement or acquisition process. FPDS-NG is a Governmentwide system used for collecting, developing, and disseminating procurement data to Congress, the Executive Branch, and the private sector. During our audit, RD tracked funds through two Departmentwide financial reporting systems—the Foundation Financial Information System (FFIS) and the Financial Management Modernization Initiative (FMMI).[10]

Objectives

The objective of our audit was to determine if goods and services were being procured efficiently and effectively. To meet this objective, we assessed if RD (1) selected contractors and prepared procurement contracts in accordance with the FAR, (2) ensured funds were correctly accounted for and used in the proper period, (3) adequately monitored contract funding and unliquidated balances, and (4) verified that deliverables were met in accordance with the contracts' terms and provisions.

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[6] Office of Management and Budget Circular A-11 (June 2008).
[7] FAR 17.104 (March 2005).
[8] FAR 17.207 (March 2005).
[9] The Fiscal Control Branch, under the Deputy Chief Financial Officer, is responsible for providing program and administrative accounting and reporting activities for RD's grant programs and portfolio of loans.
[10] In FY 2010, USDA was in the process of converting from FFIS to FMMI for its accounting needs.

Based on our review, we found no evidence to indicate that RD (1) improperly selected contractors or prepared procurement contracts outside of FAR requirements or (2) used funds in an improper period.

Section 1: Monitoring Funding

Finding 1: RD Significantly Over-Funded a Multi-Million Dollar Contract

During FYs 2009-2012, RD funded a contract (Contract A) in the amount of $99.9 million, while expending a total of only $1.6 million during the 4-year period. Although RD deobligated $61.5 million in the third year, it continued its practice of significantly over-funding the contract for the next 2 years. This occurred because the contracting officer representative (COR) requested excessive funds without considering the contract's current and prior year expenditures, and the contracting officer authorized the obligation of funds without ensuring that the amounts were needed. As a result, the contract was over-funded by almost $36.8 million, which prevented the funds from being allocated to other Government projects or programs.[11]

Departmental regulations require that "all current and prior year obligations be continuously reviewed to ensure that obligated balances are not over or under stated and that the obligations are properly documented and reported."[12]

Oversight of RD procurement contracts is performed by contracting officers, contract specialists, and CORs. The contracting officers are responsible for authorizing the obligation of funds, exercising option years, deobligating unliquidated funds, and making any other modifications to the contract. Contracting officers are assisted by contract specialists and rely on the CORs' technical expertise and day-to-day monitoring of the contracts.

To evaluate RD's procurement process and oversight of its contracts, we judgmentally selected a sample of four contracts from its mission areas. One of these contracts, Contract A, was the highest funded contract during our scope period. It was a multi-year contract, consisting of a base year and four renewable option years that were funded through annual appropriations awarded at the beginning of each fiscal year.[13] The COR determined the amount of funding needed for each contract year and the contracting officer authorized the obligation of funds. Although it was the responsibility of both the COR and the contracting officer to review current and prior year obligations to ensure that obligated balances were not over or under stated, we found that during FYs 2009-2012, RD funded between $18,654,000 and $31,741,700 to the contract's base and option years 1 through 3, even though only $1,644,535 was expended during this period. Table 1 provides a summary of Contract A's fiscal activity by year, including amounts funded, expenditures, over-funding, deobligations, and cumulative unliquidated balances.

[11] $99,892,400 (total amount funded) - $1,644,535 (expenditures) - $61,496,911 (deobligations) = $36,750,954 (unliquidated balance). The unliquidated balance consists of funds obligated but not used.
[12] USDA Departmental Regulation 2230-001 (April 21, 2009).
[13] A multi-year contract is "a special contracting method to acquire known requirements in quantities and total cost not over planned requirements for up to 5 years unless otherwise authorized by statute." FAR 17.104(a) (March 2005).

Table 1: Fiscal Activity for Contract A

CONTRACT YEAR	FY	AMOUNT FUNDED	EXPENDITURES	AMOUNT OVER-FUNDED[1]	DEOBLIGATIONS	CUMULATIVE UNLIQUIDATED BALANCE[2]
Base Year	2009	$31,741,700	$615,529	$31,126,171	$0	$31,126,171
Option 1	2010	$30,842,700	$335,859	$30,506,841	$0	$61,633,012
Option 2	2011	$18,654,000	$445,315	$18,208,685	$0	$79,841,697
		$0	$0	$0	($61,496,911)[3]	$18,344,786
Option 3	2012	$18,654,000	$247,832	$18,406,168	$0	$36,750,954
SUBTOTAL		**$99,892,400**	**$1,644,535**	**$98,247,865**	**($61,496,911)**	**$36,750,954**
Option 4[4]	2013	$11,554,000	$84,621	To Be Determined	To Be Determined	To Be Determined
TOTAL		**$111,446,400**	**$1,729,156**	To Be Determined	To Be Determined	To Be Determined

[1] Amount Over-Funded = Amount Funded – Expenditures.
[2] Cumulative Unliquidated Balance = Amount Over-Funded + Previous Years' Amount Over-Funded - Deobligations.
[3] RD deobligated a total of $61,496,911 in June 2011. As of October 2013, there were no further deobligations.
[4] As of December 2012, only $84,621 was expended in option year 4.

RD awarded Contract A to a private insurance company to ensure that borrowers with RD loans maintained adequate insurance coverage and that their policies were up-to-date.[14] Contract A was unique in that payments to the contractor were made primarily through an escrow account managed by the COR.[15] Borrowers' insurance premium payments were deposited into the escrow account which, in turn, was paid to the contractor who insured RD properties against unexpected losses. The contract eliminated RD's liability for losses by stating that the "obligation of the Government for payment of services incurred under this contract shall not exceed amounts available in the escrow account."[16]

For example, if there were claims for losses on Single Family Housing or Multi-Family Housing properties, indemnities would be paid to the borrowers through their private insurance companies at no cost to the Government. Single Family Housing insurance premiums were paid through a borrower-funded escrow account, whereas Multi-Family Housing insurance premiums were paid out of contractual funds, i.e., the expenditures in Table 1. Considering the contract terms, we question RD's need to fund the contract for $99,892,400.

Given that annual expenditures for the contract did not exceed $615,529 for any year, the COR should have reduced subsequent funding requests to reflect the actual level of expenditures. However, this did not occur and the COR continued to request significantly more funding than necessary each year. In addition, the contracting officer, who should have determined if the

[14] RD provides assistance to low-income rural Americans by offering loans through its Single Family Housing and Multi-Family Housing loan programs. To protect its interests, RD requires borrowers to maintain insurance coverage on their properties in the event of a fire, windstorm, or flood.
[15] For a standard contract, payments to the contractor are made through contractual funds.
[16] Contract A, Statement of Work (September 1, 2008).

funds were actually needed, did not question the amounts before authorizing the obligation of funds.[17]

RD deobligated $61,496,911 in the third year, but continued its practice of significantly over-funding the contract for the next 2 years. This resulted in an excess balance of $36,750,954,[18] which could have been allocated to other Government programs or projects. Although RD officials agreed with our concerns when we brought this to their attention in December 2012, they had taken no further action to deobligate the excess balance as of October 2013.

In conclusion, RD should deobligate unliquidated funds of $36,750,954, and at the end of option year 4, RD should review the unliquidated funds and deobligate any excess balances. Also, RD needs to emphasize to CORs the importance of considering contract expenditures when requesting increases to contract funds, and emphasize to contracting officers the importance of ensuring that funds are necessary prior to authorizing their obligation.

Recommendation 1

Deobligate Contract A's unliquidated funds of $36,750,954.

Agency Response

On February 4, 2014, RD deobligated Contract A's unliquidated amount of $40,120,382 and bilaterally modified the contract to reflect the deobligation.

OIG Position

We accept RD's management decision on this recommendation.

Recommendation 2

Review Contract A's funds at the end of option year 4 and deobligate any excess balances.

Agency Response

Contract A's performance period ended February 28, 2014. RD is reviewing Contract A's funding and will deobligate unliquidated amounts. The estimated completion date is July 31, 2014.

OIG Position

We accept RD's management decision on this recommendation.

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[17] For Contract A, the former Chief of the Contract Operations Branch acted as the contracting officer and was assisted by contract specialists.

[18] $98,247,865 (amount over-funded) - $61,496,911 (amount deobligated) = $36,750,954

Recommendation 3

Emphasize to CORs the importance of considering contract expenditures when requesting increases to contract funds.

Agency Response

On January 29, 2014, RD conducted a training session with the RD acquisition staff, which encompasses PMD staff, Contract Officers, Contract Specialists, Procurement Contract Analysts, and CORs. The training covered the roles and responsibilities of the acquisition workforce and CORs in reviewing unliquidated obligations, considering contract expenditures prior to increasing contract funds, and ensuring that funds are necessary prior to authorizing obligation. The purpose of the training was to reemphasize the FAR [Federal Acquisition Regulation], DR [Departmental Regulation], and Appropriations Law guidance for obligating and expending funds, monitoring funds, and administrating contracts. The training also addressed requirements to adhere to the efficient, proper, and appropriate use of contract funding as prescribed by the Office of Federal Procurement Policy Act (OFPPA) 41 USC [U.S. Code] 401. (The acquisition workforce and CORs are responsible for adhering to OFPPA 41 USC 401.) RD will conduct this training annually for its acquisition workforce and CORs.

In addition, RD instituted monthly acquisition workforce meetings with CORs to discuss best practices and regulatory changes and to review procurement systems; and to provide educational instruction (i.e., Appropriations Law, funds monitoring and control, and contract administration activities). The standard monthly meetings with the acquisition workforce will continue with an added focus on contract funding and contract closeout requirements.

OIG Position

We accept RD's management decision on this recommendation.

Recommendation 4

Emphasize to contracting officers the importance of ensuring that funds are necessary prior to authorizing their obligation.

Agency Response

The Agency has introduced new training to increase Contract Officer awareness. On January 29, 2014, RD conducted a training session with the RD acquisition staff that focused on the necessity of funding in advance of authorizing an obligation. RD explained the guidance in the FAR, DR, Appropriations Law, and OFPPA for funds authorization, obligation, expenditure, and de-obligation. RD awards a significant number of "time-and-materials" contracts; therefore, FAR Part 16 was reviewed in detail. RD's practice is to execute contract activities and administer contracts in accordance with these regulations and OFPPA 41 USC 401. RD will conduct this

training annually for its acquisition workforce and CORs. In addition, during the monthly acquisition workforce meetings, RD will review funding activities with an increased emphasis on pertinent regulations.

OIG Position

We accept RD's management decision on this recommendation.

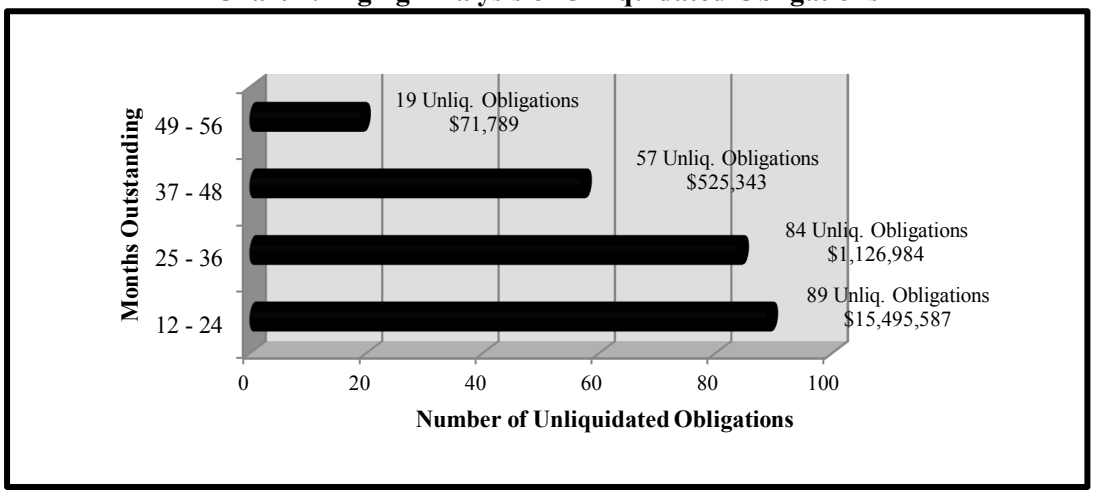
Finding 2: PMD Did Not Adequately Review Unliquidated Obligations

The Procurement Management Division (PMD) did not adequately review unliquidated obligations that were inactive for over a year to ensure funds were still needed.[19] We reviewed the 5 largest unliquidated obligations and identified over $8.2 million in excess funds (48 percent of the total unliquidated balance) that had no justification in the contract file to remain obligated. This occurred because procurement staff believed they had the flexibility to wait until the contract was completed before deobligating any excess funding. As a result, there are $1.2 million in excess funds that RD needs to deobligate.[20] Also, since PMD did not conduct an adequate review of unliquidated obligations, there is no assurance that obligation balances were properly reported, used in the appropriate period, or made available for other uses.

Departmental regulations state, "agencies are required to certify quarterly that reviews and corrective actions related to unliquidated obligations inactive for at least 12 months were performed . . . Obligations with no activity for the most recent 12 months should be deobligated unless there is a bona-fide purpose for the obligation to remain and a justification for the period of inactivity . . . Program and/or procurement personnel will determine if unliquidated obligations should be deobligated and provide a written notification to financial personnel."[21]

PMD is responsible for reviewing unliquidated obligations on RD's procurement contracts to determine if funds are valid, properly accounted for, or need to be deobligated.[22] We obtained records of the unliquidated obligations as of September 30, 2011, and identified 249 obligations that had no activity for over 12 months with a total unliquidated balance of $17,219,703.[23] These unliquidated obligations remained open from 12 to 56 months. See Chart 1 for an aging analysis of the 249 unliquidated obligations.

Chart 1: Aging Analysis of Unliquidated Obligations



[19] As of September 30, 2011, there were 249 unliquidated obligations associated with RD national office procurement contracts that were inactive for over a year. The total unliquidated balance was $17.2 million.
[20] $7,000,000 of the $8,227,321 was recommended to be deobligated in Recommendation 1.
[21] USDA Departmental Regulation 2230-001 (April 21, 2009).
[22] These are national office procurement contracts only.
[23] The 249 is variable and the number of unliquidated obligations will increase as funds age and decrease as funds are deobligated.

Of the $17,219,703, we reviewed the five largest unliquidated obligations and found that three of the five, totaling $8,227,321, needed to be deobligated because they were over 12 months old and had no documentation in the files justifying the period of inactivity. See Table 2 for the last activity dates, obligation amounts, and unliquidated balances for our sampled obligations.

Table 2: Five Largest Unliquidated Obligations

SAMPLED OBLIGATIONS	LAST ACTIVITY DATE	DAYS SINCE LAST ACTIVITY	OBLIGATION AMOUNT	UNLIQUIDATED BALANCE	JUSTIFICATION TO REMAIN OPEN
1	08/31/10	395	$5,000,000	$5,000,000	No
2	08/31/10	395	$2,000,000	$2,000,000	No
3	09/24/10	371	$2,185,000	$1,227,321	No
SUBTOTAL			**$9,185,000**	**$8,227,321**	
4	09/28/10	367	$3,194,499	$3,194,499	Yes
5	08/03/10	423	$2,400,000	$1,519,598	Yes
TOTAL			**$14,779,499**	**$12,941,418**	

We questioned PMD officials why these funds were not deobligated. PMD's former Chief of the Contract Operations Branch believed that his staff had the flexibility to wait until after contracts were completed to deobligate excess funds. However, the Departmental regulation is clear in stating that unliquidated obligations with no activity for over 12 months should be deobligated unless there is a bona-fide purpose for the obligation to remain open and a justification for the period of inactivity.

With the intent of improving the process, RD implemented a web site on December 31, 2011, that contains copies of pertinent guidance, due date reminders, and updates on issues impacting reporting of unliquidated obligations. However, we obtained the quarterly report of unliquidated obligations, dated January 31, 2012, and found that PMD continued to certify that all obligations were valid without verifying if the funds were still needed.

In conclusion, reviewing unliquidated obligations is essential to ensure that funds are properly accounted for and used in the appropriate period. Therefore, RD should deobligate the $1,227,321 in unliquidated funds associated with obligation 3.[24] RD also should identify the unliquidated obligations associated with its procurement contracts that were inactive for over 12 months and deobligate the funds that have no justification to remain open. Lastly, RD should clarify to PMD staff its roles and responsibilities in reviewing unliquidated obligations.

Recommendation 5

Deobligate the $1,227,321 in unliquidated funds associated with sampled obligation 3.

[24] Although $8,227,321 did not have justification to remain open, we recommended that $7,000,000 of that amount be deobligated in Recommendation 1.

Agency Response

On February 4, 2014, RD deobligated $1,227,321 of sampled obligation 3 unliquidated funding and closed out the contract.

OIG Position

We accept RD's management decision on this recommendation.

Recommendation 6

Identify unliquidated obligations on procurement contracts that were inactive for over 12 months. Deobligate those funds that have no justification in the contract file for remaining open.

Agency Response

RD has deobligated unliquidated obligations on contracts that were inactive for over 12 months. RD currently is processing closeout procedures on those contracts. The estimated completion date is November 28, 2014 (due to volume of procurement workload, RD is securing additional procurement support).

OIG Position

We accept RD's management decision on this recommendation.

Recommendation 7

Clarify to PMD staff its roles and responsibilities in reviewing unliquidated obligations.

Agency Response

On January 29, 2014, RD conducted training with the RD acquisition staff, which included PMD staff. The training addressed the roles and responsibilities of PMD staff as set out in Departmental Regulation 2230-001, "Reviews of Unliquidated Obligations Requirements." RD emphasized the importance of timely reviews of unliquidated obligations, including, but not limited to: (1) properly reporting obligation balances; (2) certifying the validity of obligated balances; (3) making funds available that otherwise would not be used; (4) reducing the risk of misuse and theft of funds; and (5) improving the Treasury Department's ability to forecast outlay and borrowing needs. After USDA implemented the IAS "Discoverer" report in December 2013, RD instituted the monthly usage of the report. The report is generated for RD contracting personnel to evaluate contract deobligation/liquidation status.

OIG Position

We accept RD's management decision on this recommendation.

Section 2: Contract Closeout

Finding 3: PMD Did Not Close Its Completed Contracts

PMD did not close the 10 contracts we reviewed, even though 9 of these contracts were more than 2 years past their completion date.[25] This occurred because PMD officials directed staff to focus on awarding new contracts, in lieu of closing completed ones. As a result, RD does not have adequate assurance that all agreed-upon goods and services were received for contracts totaling over $27.6 million. Further, RD has not deobligated $91,822 in excess funds, which could have been put to better use.

The FAR states, "firm fixed-price contracts . . . should be closed within 6 months after the date on which the contracting officer receives evidence of physical completion[26] . . . The contract administration office [PMD] is responsible for initiating administrative closeout."[27]

A contract is considered to be completed when the Government has received the agreed-upon goods and services and the contractor has been adequately compensated. To close a contract, PMD must review the completed contract and, if applicable, modify the contract to deobligate any excess funds. After this process has been finalized, PMD prepares a contract completion statement.

PMD administers contracts that have specific periods of performance. Depending on the terms of the contract, there may be multiple end dates within the same contract. For example, a multi-year contract with a base year and renewable option years may have multiple periods of performance with separate end dates and a final completion date for the entire contract. Since the universe of contracts provided by PMD did not differentiate between performance end dates and contract completion dates, we conducted an analysis to determine if PMD was closing completed contracts timely.

From PMD's universe of 146 contracts, we identified 51 contracts, totaling $44,678,493, with end dates on or before the end of FY 2011. We reviewed 10 of the contracts, totaling $27,603,695, to determine if PMD was closing completed contracts within the 6-month timeframe. We found none of these contracts were closed, even though 9 of them were between 28 and 47 months past their completion dates. For 5 of these contracts, we identified $91,822 in excess funds that need to be deobligated. Table 3 shows the contract completion dates, award amounts, and unliquidated balances for our sample of 10 contracts.

[25] For the one contract that did not require closing (Contract K), PMD staff provided documentation to show that the completion date was extended and only 2 months past its completion date at the time of our review.
[26] FAR 4.804-1(2) (March 2005).
[27] FAR 4.804-5(a) (March 2005).

Table 3: PMD Contracts Not Closed

CONTRACT	COMPLETION DATE	MONTHS SINCE COMPLETION[1]	AWARD AMOUNT	UNLIQUIDATED BALANCE
Contract B	9/29/2009	38	$538,891	$54,784
Contract C	9/30/2009	38	$311,230	$14,104
Contract D	12/31/2008	47	$756,954	$9,440
Contract E	9/29/2009	38	$3,567,331	$8,619
Contract F	9/28/2009	38	$642,746	$4,875
Contract G	7/31/2010	28	$3,777,541	$0
Contract H	9/29/2009	38	$376,000	$0
Contract I	9/30/2009	38	$184,768	$0
Contract J	12/31/2009	35	$211,533	$0
Contract K	9/27/2012	2	$17,236,701	$0
TOTAL			**$27,603,695**	**$ 91,822**

[1] We calculated the months since completion from the contract completion date to the time of our review on December 2012 and rounded to the nearest month.

Furthermore, PMD could not provide documentation showing that any contracts had been closed during FYs 2009-2011. The Director stated that, due to staffing shortages and high turnover in recent years, closing contracts has been a low priority. Although he was aware of the regulation requiring contracts to be closed within 6 months after their completion, he instructed his staff to focus their efforts on awarding new contracts, in lieu of closing completed ones.

PMD's contract closing policy is to contact the customer (i.e., agency personnel) to ensure that all goods and services have been received and then contact the contractor to determine if all invoices have been paid before deobligating any excess funds and preparing the contract completion statement. Since PMD had not closed any contracts in over 3 years, we determined that RD does not have adequate assurance that all agreed-upon goods and services were received. PMD officials recognize that not closing contracts is a problem and in February 2013 issued updated guidelines.

In conclusion, contract closing is an integral part of contract administration. This process allows Federal agencies to identify and redirect excess funds to other programs or projects. If contract closing is not performed, it can leave the Government susceptible to fraud, waste, and mismanagement. Therefore, RD needs to deobligate the $91,822 in excess funds and close the 10 contracts we reviewed.[28] We also recommend that RD review its inventory of completed procurement contracts and perform the required closeout procedures.

[28] Contract K was completed in September 2012 and should be closed.

Recommendation 8

Deobligate $91,822 in unliquidated funds for Contracts B, C, D, E, and F.

Agency Response

RD deobligated unliquidated funds and closed out Contracts B, C, and D. Contract E was cancelled. Deobligation of Contract F's unliquidated funds currently is underway, and, upon completion, the contract will be closed out. The estimated completion date is April 30, 2014.

OIG Position

We accept RD's management decision on this recommendation.

Recommendation 9

Conduct contract closing procedures for Contracts B, C, D, E, F, G, H, I, J, and K.

Agency Response

RD has closed out Contracts B, C, D, I, J and K. Contract E was cancelled. RD is working on closing out Contracts F, G, and H. The estimated completion date is June 30, 2014.

OIG Position

We accept RD's management decision on this recommendation.

Recommendation 10

Review the inventory of completed procurement contracts and perform the required closing procedures.

Agency Response

RD will conduct contract closing actions on all completed contracts. The estimated completion date is November 28, 2014 (due to volume of procurement workload, RD is securing additional procurement support).

OIG Position

We accept RD's management decision on this recommendation.

Scope and Methodology

We conducted a review of RD's procurement process during FYs 2009-2011. We performed fieldwork at the RD national office and PMD in Washington, D.C., and the Fiscal Control Branch in St. Louis, Missouri.[29] We conducted fieldwork from January 2012 through April 2013.

In total, we reviewed 14 procurement contracts for different purposes—4 active contracts to review the overall procurement process and 10 completed contracts to determine if they exceeded the 6-month closing requirement. We also reviewed 5 of RD's largest unliquidated obligations to determine if they were still valid or needed to be deobligated.

To select our sample of active contracts, we obtained records for RD procurement contracts active during FYs 2009-2011.[30] We filtered the data for contracts over $150,000, which resulted in 146 contracts, totaling $434 million. Based on RD mission area and dollar amount, we judgmentally selected four contracts for our review—two from the Rural Housing Service, one from the Rural Utilities Service, and one from the Office of Management.[31] These contracts totaled $232 million.

To select our sample of completed contracts, we filtered the 146 contracts by end dates on or before September 30, 2011. This resulted in 51 contracts, totaling $44.7 million. From the 51 contracts we identified, we judgmentally selected the 10 largest contracts, totaling $27.6 million.

To select our sample of unliquidated obligations, we obtained all unliquidated obligations associated with RD national office procurement contracts as of September 30, 2011.[32] From this data, we identified 249 obligations with an unliquidated balance of $17.2 million that had no payment activity for more than 12 months. We judgmentally selected the 5 largest unliquidated obligations totaling $12.9 million.

We make no representations regarding the systems or data within this report, except for the data sets we used in the audit.

To accomplish our audit, we:

- **Reviewed criteria:** We reviewed the FAR, Agriculture Acquisition Regulations, USDA Departmental Regulations, Office of Management and Budget guidance, and PMD Procurement Operating Procedures.

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[29] PMD is responsible for the majority of RD's procurement activity.
[30] The records of PMD contract data were retrieved from the IAS and FPDS-NG systems. IAS interfaces with FPDS-NG so that contract data that exceed the threshold of $3,000 are automatically input into FPDS-NG.
[31] Of the four RD mission areas, PMD's universe contained only one Rural Business-Cooperative Service contract valued at $200,000. To increase the size of our sample, we judgmentally selected a second Rural Housing Service contract valued at $2,331,111.
[32] The unliquidated obligation data were obtained from the FFIS and FMMI financial reporting systems. In FY 2010, USDA was in the process of converting from the FFIS to the FMMI software system; therefore, both systems were used to obtain the data for our scope period.

- **Interviewed RD personnel:** We interviewed RD procurement personnel at PMD, financial personnel at the RD national office and Fiscal Control Branch, and CORs to gain an understanding of RD's procurement process and to determine if RD's controls were adequate.

- **Reviewed and analyzed procurement contract files:** For the four active contracts, we reviewed documentation in the contract files, such as evaluations of contractor business proposals, statements of work, contract milestones, justifications for contract modifications, payments made to contractors, and correspondence between parties involved with the contract. We compared the contract file documentation to the FAR and other applicable criteria to determine if RD adhered to requirements. Since we found issues with Contract A in FYs 2009–2011, we expanded our review to include FYs 2012 and 2013 for that contract only.

- **Reviewed and analyzed PMD's unliquidated obligations:** We reviewed documentation and correspondence associated with our sample of five unliquidated obligations. In addition, we contacted PMD contract specialists and CORs to confirm if the unliquidated obligations had justification in the contract files to remain open, or if the obligations needed to be deobligated.

- **Reviewed unliquidated obligation certification reports:** We reviewed the unliquidated obligation certification reports that PMD transmitted to Fiscal Control Branch for FYs 2009-2011 to determine if they were submitted by the due dates outlined in USDA Departmental Regulations.

- **Reviewed PMD's contract closing process:** For the 10 completed contracts, we reviewed contract documentation and correspondence between RD personnel and the contractor to determine if PMD was adhering to the closing procedures outlined in the FAR.

- **Reviewed PMD management reports:** We reviewed the 2010 and 2011 PMD Management Control Reviews to become familiar with previously identified procurement issues.

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

Abbreviations

COB.....Contract Operations Branch
COR.....Contracting Officer Representative
DR .....Departmental Regulation
FAR .....Federal Acquisition Regulation
FFIS.....Foundation Financial Information System
FMMI .....Financial Management Modernization Initiative
FPDS-NG .....Federal Procurement Data System–Next Generation
FTBPTBU.....Funds To Be Put To Better Use
FY.....Fiscal Year
IAS .....Integrated Acquisition System
OCFO .....Office of the Chief Financial Officer
OFPPA .....Office of Federal Procurement Policy Act
OIG.....Office of Inspector General
PMD .....Procurement Management Division
PPMB .....Policy and Program Management Branch
RD .....Rural Development
USC.....U.S. Code
USDA.....U.S. Department of Agriculture

Exhibit A: Summary of Monetary Results

Exhibit A summarizes the monetary results for our audit report by finding and recommendation number.

Finding Number	Recommendation Number	Description	Amount	Category[1]
1	1	RD over-funded Contract A but did not deobligate excess funds for option years 2 and 3.	$36,750,954	FTBPTBU: Deobligations
2	5	PMD did not adequately review unliquidated obligations and deobligate excess funding.	$1,227,321	FTBPTBU: Deobligations
3	8	PMD did not conduct closing procedures and deobligate excess funds.	$91,822	FTBPTBU: Deobligations
Total Monetary Results			**$38,070,097**	

[1] FTBPTBU is funds to be put to better use.

USDA'S
RURAL DEVELOPMENT
RESPONSE TO AUDIT REPORT

United States Department of Agriculture

Rural Development

Operations and Management

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March 6, 2014

TO: Gil H. Harden
Assistant Inspector General for Audit

FROM: Edna Primrose /s/ Edna Primrose
Deputy Administrator

SUBJECT: Office of Inspector General Draft Audit Report
Audit Number: 50601-0001-41
Rural Development Procurement Controls
Recommendations Responses

This memorandum serves as Rural Development's (RD) response to the recommendations of the Office of Inspector General (OIG) in the Draft Report dated December 24, 2013.

The Draft Report addressed two aspects of RD's procurement practices: 1) funding of contracts and activities; and 2) compliance with the Federal Acquisition Regulation (FAR) and Departmental Regulations (DR). The OIG found that RD acted properly in several areas, including proper selection of contractors, preparation of procurement contracts in accordance to the Federal Acquisition Rule and the Department Regulation, as well as using contract funds within appropriate time periods. The OIG also made three important findings for which RD is undertaking corrective steps to resolve.

The OIG's findings concerned the following issues: 1) management of the funding requirements of a multi-million dollar contract; 2) review of unliquidated obligations; and 3) closing of completed contracts. OIG recommended that RD de-obligate more than $38 million in unliquidated funds and more proactively monitor contract funding and unliquidated balances. OIG further recommended that RD review its inventory of completed contracts and perform the required contract closing procedures. RD concurs with these recommendations and has instituted contract and procurement management controls and training. RD believes these corrective actions will resolve the findings fully and prevent future deficiencies in these areas.

Finding 1: Overfunding of Contract A

In Finding 1, OIG determined that RD overfunded Contract A.

Agency Response:

To avoid overstating the funding need in the future, RD will increase the scope and rigor of its review process through expanded contract management. RD will explore FAR-compliant options that permit smaller obligation balances.

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Finding 1 Recommendations:

Recommendation 1
De-obligate Contract A's unliquidated funds of $36,750,954.

Agency Response 1
On February 4, 2014, RD de-obligated Contract A's unliquidated amount of $40,120,382 and bilaterally modified the contract to reflect the de-obligation.

Estimated Completion Date: Completed

Recommendation 2
Review Contract A's funds at the end of option year 4 and de-obligate any excess balances.

Agency Response 2
Contract A's performance period ended February 28, 2014. RD is reviewing Contract A's funding and will de-obligate unliquidated amounts.

Estimated Completion Date: July 31, 2014

Recommendation 3
Emphasize to Contracting Officer Representatives (COR) the importance of considering contract expenditures when requesting increases to contract funds.

Agency Response 3
On January 29, 2014, RD conducted a training session with the RD acquisition staff, which encompasses the Procurement Management Division (PMD) staff, Contract Officers, Contract Specialists, Procurement Contract Analysts, and CORs. The training covered the roles and responsibilities of the acquisition workforce and CORs in reviewing unliquidated obligations, considering contract expenditures prior to increasing contract funds, and ensuring that funds are necessary prior to authorizing obligation. The purpose of the training was to reemphasize the FAR, DR, and Appropriations Law guidance for obligating and expending funds, monitoring funds, and administrating contracts. The training also addressed requirements to adhere to the efficient, proper, and appropriate use of contract funding as prescribed by the Office of Federal Procurement Policy Act (OFPPA) 41 USC 401. (The acquisition workforce and CORs are responsible for adhering to OFPPA 41 USC 401.) RD will conduct this training annually for its acquisition workforce and CORs.

In addition, RD instituted monthly acquisition workforce meetings with CORs to discuss best practices and regulatory changes and to review procurement systems; and to provide educational instruction (i.e., Appropriations Law, funds monitoring and control, and contract administration activities). The standard monthly meetings with the acquisition workforce will continue with an added focus on contract funding and contract closeout requirements.

Estimated Completion Date: Completed and ongoing

Recommendation 4
Emphasize to Contracting Officers (COs) the importance of ensuring that funds are necessary prior to authorizing the obligation of them.

Agency Response 4
The Agency has introduced new training to increase CO awareness. On January 29, 2014, RD conducted a training session with the RD acquisition staff that focused on the necessity of funding in advance of authorizing an obligation. RD explained the guidance in the FAR, DR, Appropriations Law, and OFPPA for funds authorization, obligation, expenditure, and de-obligation. RD awards a significant number of "time-and-materials" contracts; therefore, FAR Part 16 was reviewed in detail. RD's practice is to execute contract activities and administer contracts in accordance with these regulations and OFPPA 41 USC 401. RD will conduct this training annually for its acquisition workforce and CORs. In addition, during the monthly acquisition workforce meetings, RD will review funding activities with an increased emphasis on pertinent regulations.

Estimated Completion Date: Completed and ongoing

Finding 2: Inadequate Review of Unliquidated Obligations
In Finding 2, OIG determined that RD did not adequately review unliquidated obligations.

Agency Response:

RD concurs with Finding 2 and has instituted new procedures, training, and increased oversight to ensure obligated funds will be closely monitored at the end of each contract year to ensure remaining funds are de-obligated timely. In December 2013, USDA implemented the Integrated Acquisition System (IAS) "Discoverer" report. This report associates procurement instrument numbers and Federal Management Modernization Initiative (FMMI) instrument identification numbers targeted for contract funding liquidation. The reports reflect the contract de-obligation/liquidation status, which is an effective method to access contract funding liquidation status. RD now uses the new IAS "Discoverer" report as part of its operating procedure. RD will review inactive procurement contracts with obligated funding and de-obligate remaining funds as applicable. RD de-obligated unliquidated contract obligations that were inactive for over 12 months. RD is processing closeout procedures on these contracts.

Finding 2 Recommendations:

Recommendation 5
De-obligate the $1,227,321 in unliquidated funds associated with sampled obligation 3.

Agency Response 5
On February 4, 2014, RD de-obligated $1,227,321 of sampled obligation 3 unliquidated funding and closed out the contract.

Estimated Completion Date: Completed

Recommendation 6
Identify unliquidated obligations on contracts that were inactive for over 12 months. De-obligate those funds that have no justification in the contract file for remaining open.

Agency Response 6
RD has de-obligated unliquidated obligations on contracts that were inactive for over 12 months. RD currently is processing closeout procedures on those contracts.

Estimated Completion Date: November 28, 2014 (due to volume of procurement workload, RD is securing additional procurement support)

Recommendation 7
Clarify to PMD staff its roles and responsibilities in reviewing unliquidated obligations.

Agency Response 7
On January 29, 2014, RD conducted training with the RD acquisition staff, which included the PMD staff. The training addressed the roles and responsibilities of PMD staff as set out in the DR 2230-001, "Reviews of Unliquidated Obligations Requirements." RD emphasized the importance of timely reviews of unliquidated obligations, including, but not limited to: 1) properly reporting obligation balances; 2) certifying the validity of obligated balances; 3) making funds available that otherwise would not be used; 4) reducing the risk of misuse and theft of funds; and 5) improving the Treasury Department's ability to forecast outlay and borrowing needs. After USDA implemented the IAS "Discoverer" report in December 2013, RD instituted the monthly usage of the report. The report is generated for RD contracting personnel to evaluate contract de-obligation/liquidation status.

Estimated Completion Date: Completed

Finding 3: Untimely Closure of Completed Contracts
OIG determined that RD did not timely close completed contracts.

Agency Response:

RD has instituted new procedures and increased oversight to rectify untimely contract actions. RD acquisition workforce was trained on the FAR Subpart 4.804 "Closeout of Contract Files," FAR Subpart 42.708 "Quick-Closeout Procedures," Agriculture Acquisition Regulations Advisory 93 and 93 A "Contract Closeout Procedures," and RD's contract closeout reference guideline. RD will review its inventory of contracts to identify completed contracts. Closeout procedures will be executed on completed contracts. RD has initiated monthly reporting and monitoring of contract closeout activities. Contracts will be closely monitored at the end of the contract period for closeout action determination.

Finding 3 Recommendations:

Recommendation 8
De-obligate $91,822 in unliquidated funds for Contracts B, C, D, E, and F.

Agency Response 8
RD de-obligated unliquidated funds and closed out Contracts B, C, and D. Contract E was cancelled. De-obligation of Contract F's unliquidated funds currently is underway, and, upon completion, the contract will be closed out.

Estimated Completion Date: April 30, 2014

Recommendation 9
Conduct contract closing procedures for Contracts B, C, D, E, F, G, H, I, J, and K.

Agency Response 9
RD has closed out Contracts B, C, D, I, J and K. Contract E was cancelled. RD is working on closing out Contracts F, G, and H.

Estimated Completion Date: June 30, 2014

Recommendation10
Review the inventory of completed procurement contracts and perform the required closing procedures.

Agency Response 10
RD will conduct contract closing actions on all completed contracts.

Estimated Completion Date: November 28, 2014 (due to volume of procurement workload, RD is securing additional procurement support)

Conclusion
RD is committed to providing effective management of procurement and contract actions and to ensuring that all contracts comply with the FAR and DR. RD will ensure timely and effective monitoring of all funding, obligation, and contract closeout actions. RD will conduct annual and periodic training of its acquisition workforce and CORs on regulations, contract funding, contract administration, and USDA procurement systems/tools.

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