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United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General

Report of Inspection

Review of the Department of State Plan to Provide Qualified Contracting Officers and Contracting Officer Representatives for Oversight of American Recovery and Reinvestment Act Projects

Report Number ISP-I-10-26, January 2010

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PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. W. Geisel".

Harold W. Geisel
Deputy Inspector General

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KEY JUDGMENT

Overall, the Department of State (Department) is coordinating well among all the offices that play a role in the American Recovery and Reinvestment Act (ARRA) funds including the contracting officers (CO) and contracting officer representatives (COR). However, the Department could improve implementation of federal procurement policies and immediately improve its mechanisms for tracking training requirements for its COs and CORs before additional ARRA contracts are awarded, and minimize any risk associated with the qualifications of the contract employees who are administering these contracts.

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BACKGROUND

On February 17, 2009, President Obama signed the ARRA into law. The impact of the multipurpose bill on the Department is to spend over \$600 million, primarily on capital projects and technology infrastructure. Funding includes \$90 million for Diplomatic and Consular Programs, \$290 million for the Capital Investment Fund, \$220 million for the International Boundary and Water Commission (IBWC) construction, and \$2 million for the Office of Inspector General (OIG) to audit, evaluate, and monitor how the ARRA funds are spent.

The Department is responsible for ensuring that there are sufficient well-qualified and appropriately trained COs and (COR) to manage and provide the proper oversight for the ARRA contracts. The Office of Acquisitions Management (A/LM/AQM) and the senior procurement executive in the Office of the Procurement Executive (A/OPE) play a major role in ensuring that ARRA funds expended by the Department are spent in accordance with relevant acquisition policies and programs.

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President's Council on Integrity and Efficiency, *Quality Standards for Inspections*. The
OIG team discussed its conclusions and observations with appropriate Department
management officials.

RESULTS

CONTRACTING OFFICER TRAINING AND QUALIFICATIONS

The inspection team reviewed the qualifications of the six COs responsible for the 11 ARRA contracts. The workload of the Department's COs has slightly increased as a result of awarding and administering ARRA contracts. Interviews with different offices revealed that ARRA contracts have priority in terms of the attention of the COs assigned to them. The burden of additional workloads from ARRA has not impacted operations. However, the inspection team had concerns that the contract administration of other contracts and the proper oversight of ARRA contracts may be affected as more contracts are awarded. Accordingly, the OIG team counseled the Department to monitor the situation. The IBWC was authorized to transfer \$2 million to salaries and expenses for additional personnel to facilitate administration and oversight of ARRA contracts. The IBWC has accomplished this by hiring two term COs and four engineers.

Use of Contractors While Avoiding Inherently Governmental Functions

Department of State COs are supported in contract administration by contractor personnel, but this may not be adequate. The OIG team verified that proper controls are in place to ensure that contractors do not perform any inherently governmental functions. However, the inspection team was not able to evaluate which mechanisms or controls are in place to ensure that the contractors do not receive unfair advantages from the knowledge that they obtain through their work.

The COs managing these ARRA contracts are very experienced GS-1102 employees with 15 or more years of experience in contracting. Five of them are grade GS-14 and one is grade GS-15. Four of the six COs have a FAC-C Level II warrant of \$5,500,000 for commercial items and \$500,000 for noncommercial items. The other two COs have a FAC-C Level III warrant, which gives them the authority to sign contracts, without regard to limit, on behalf of the U.S. Government. The IBWC CO has a FAC-C level III warrant.

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In reviewing CO qualifications, the team discovered that some COs have not met their 80 continuous learning points (CLP) of skills-currency training within the past two years.¹ Three of the COs have not taken sufficient training courses in the past two years to meet the 80 CLP training requirement stated in the OMB's *The Federal Acquisition Certification in Contracting (FAC-C) Program* policy memorandum (dated January 20, 2006). As of July 30, 2009, these COs were not enrolled in any training courses. The Department's senior procurement executive gave one CO 80 points for creditable activities. The OIG team verified that these activities met the training objectives of the FAC-C program. The CO in IBWC has maintained 80 CLPs.

The training records kept by the COs are different from the training records maintained by the program specialist in A/LM/AQM who keeps track of all the training. A/LM/AQM does not have a system for identifying the different FAC-C training requirements for each CO. This program specialist enrolls the COs in courses and notifies them when classes are available; however, each CO must determine which training courses he/she needs to maintain their FAC-C certification. The COs are also responsible for providing to the program specialist a copy of the certificate of training upon course completion. The COs' supervisors, and in some cases the COs themselves, do not take an active role in verifying or keeping accurate inventory of the COs' compliance with the 80 CLP requirement. The OMB January 2006 policy memorandum requires the Acquisition Career Management Information System (ACMIS) to be the official system of records for the FAC-C program for all civilian agencies. The memo also stated that agencies and individuals must maintain supplemental records for quality assurance — e.g., copies of course certificates and creditable activities. The COs for ARRA contracts have not used ACMIS except for one who used it approximately six months ago. The CO in IBWC has not used ACMIS. The OIG team was told that ACMIS is not user-friendly and has many "computer bugs." The Department, which has a representative in the ACMIS working group, has shared those concerns with the individuals responsible for the ACMIS program at FAI. FAI recognizes that there are challenges with ACMIS, and it is working towards addressing those challenges with the working group. FAI expects to have the outstanding ACMIS issues resolved before the end of 2009, and has expressed the hope that, once those issues are addressed, COs from the federal agencies will use the ACMIS system regularly.

The inspection team found that the conditions described above occurred for various reasons. A key reason is that, during mid-year performance reviews, the COs' supervisors only informally encouraged training. COs are not required to prepare or

¹ OMB in FAC-C and FAC-COTR specifies the conversion formulas for converting various activities, including training, professional activities, or qualifying education into continuous learning points.

follow an individual development plan. Another reason that some COs have not met their training requirements is that they feel they are experienced enough, and they are concerned that the week or two spent away from work on training might seriously impact their workload.

The purpose of training requirements is to ensure that COs' skills are up-to-date with new contracting regulations and best practices. Given the technology available today and the flexibility of online classes, there is no reason COs cannot meet their continuous learning requirements every two years. The Department could also do a better job of monitoring these training requirements otherwise it cannot ensure that all COs maintain professional proficiency and remain qualified.

Recommendation 1: The Office of Acquisitions Management, in coordination with the Office of the Procurement Executive, should establish and implement a tracking system to document and monitor the training requirements stated in the Federal Acquisition Certification in Contracting policy memorandum, including the requirement that contracting officers must have 80 continuous learning points every two years. (Action: A/LM/AQM, in coordination with A/OPE)

CONTRACTING OFFICER REPRESENTATIVE TRAINING AND QUALIFICATIONS

Four CORs have been assigned to seven of the 11 ARRA contracts. The other four contracts are delivery orders and do not require the appointment of a COR. The OIG team verified that all CORs on these ARRA contracts took the initial 40 CLPs of training for certification before they were appointed as CORs. Delegation letters are included in the contract files. However, the CORs training certificates were not included in two contract files. The OIG team was told that, because these ARRA contracts were task orders or modifications from the original contracts awarded a few years earlier, the certificates are in the original contract files.

Two of the four CORs took their initial COR certification training in 2007, so the training was still current. However, there was a certification letter for the third COR without any apparent review of the COR's training qualifications; the initial training for certification was conducted in 2003, so it was no longer current. The fourth COR's initial training for certification took place in 2006, so it too was no lon-

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ger current. The team concluded that, in both cases, the reason for the out-of-date training was that the Department's senior procurement executive was not implementing the more rigorous standard. The Department advised the OIG team that this was because it chose to initially apply the more rigorous standard only to its COs. Therefore, CORs and their supervisors were not aware that the training standard had changed.

The IBWC CORs on ARRA contracts also took their initial 40 CLPs of COR training for certification. The Recovery Accountability and Transparency Board uses OMB's *The Federal Acquisition Certification for Contracting Officer Technical Representatives (COTRs)* memorandum dated November 26, 2007, as criteria in reviewing ARRA funds. This policy memorandum states that COTRs (known as CORs in the Department) must have a minimum of 40 CLPs for initial certification, and must maintain their skills currency through continuous learning every two years. The CLPs can be obtained from several sources, including online courses, professional activities, and qualifying education. The Department has not implemented this requirement; it still follows the Department of State Acquisition Regulations 642.270 (d) and 14 FAH-2 H-143.1(c), which require that CORs take a refresher course every five years. In applying the OMB November 2007 policy memorandum as criteria, the OIG team found that some CORs are not in compliance with the government-wide training requirement. The OIG team was told that the change had not been implemented because there were no additional resources to implement this program, and compliance with FAC-C has been a higher priority.

The OIG team concluded that, although A/OPE resources are limited and the FAC-C program is indeed important, this does not relieve the Department of the responsibility to implement this policy requirement. The chief acquisition officer in each federal agency is responsible for developing workforce policies that apply the FAC-COTR requirements.

Recommendation 2: The Office of the Procurement Executive should implement the Office of Management and Budget's *The Federal Acquisition Certification for Contracting Officer Technical Representatives* policy memorandum and make changes to the *Department of State Acquisition Regulations and Foreign Affairs Handbook* to reflect the new requirement that contracting officer representatives must have 40 continuous learning points every two years, to maintain their skills currency and certification. (Action: A/OPE)

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The OIG team asked for information about the CORs for these ARRA contracts and found that there is no database to track the CORs' initial 40 CLPs of training for certification or the CLPs that are required thereafter to maintain skills currency and certification. The COs informed the team that they rely on the CORs to let them know if they have taken COR training. Although the COs assured the team that no one is designated as a COR without showing proof that he or she has taken the initial training, the OIG team found that this was not the case for at least one ARRA COR. The lack of a central training database could result in a major risk for the Department, since it cannot verify that all CORs maintain their technical competencies during the life of a contract. The OMB November 2007 policy memorandum states that an "Acquisition Career Manager or designee, shall monitor the continuous learning requirements for employees holding FAC-COTRs to ensure they meet this requirement." The memorandum also directs COTRs to use ACMIS. COTRs must update their existing ACMIS records in a timely manner and should keep them current, so the records accurately reflect the COR/COTRs' CLP acquisition and certification status. None of the ARRA CORs, including the one from IBWC, has used ACMIS to record their training information, but IBWC maintains excellent training records on its CORs.

The OIG team anecdotally learned that the Bureau of Overseas Buildings Operations and the Bureau of International Narcotics and Law Enforcement Affairs maintain good records of their CORs' training. This assertion seemed to be based on the two bureaus' expertise in keeping training records, due to their heavier involvement in contracts and contract oversight, as compared to other bureaus. For example, The Bureau of Overseas Building Operations has a training officer, but each division director is responsible for maintaining accurate training records for CORs in that division. Some divisions in the bureau have much greater contract management responsibilities than others. In the Bureau of International Narcotics and Law Enforcement Affairs, the management systems division chief of resource management has taken a proactive approach. Under his direction, his bureau has established a COR checklist, and his staff periodically meets with CORs in the bureau to review the checklist. He has also established the bureau's training program for CORs, and it includes an exemplary set of COR training materials. The bureau's program and policy guide also directs CORs to make necessary arrangements with the Foreign Service Institute, in coordination with the bureau training officer, for additional training. The OIG team learned that the bureau's chief of resource management was not familiar with ACMIS or the FAI; CORs in the bureau do not input their training into ACMIS; and the chief of resource management was not aware of the more stringent government-wide standard of 40 COR CLPs every two years, rather than the five-year standard that the Department is currently using.

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CORs for ARRA contracts are doing their part in tracking their training information, but they too were unaware of the tightened standard. The Department could be more proactive and take advantage of technology to develop an electronic system that not only keeps training information, but also alerts the COR and the COR's supervisor when a training opportunity is available, and when it is time to take a refresher training course. Additionally, the Department could delegate to the bureaus the authority to keep track of COR training, and could give A/OPE responsibility for conducting audit reviews from time to time, to verify that CORs are up-to-date with their training requirements.

Recommendation 3: The Office of the Procurement Executive should develop and implement an electronic tracking database and procedures to record and verify that contracting officer representatives' qualifications and continuous learning training requirements meet those of the Office of Management and Budget's *The Federal Acquisition Certification for Contracting Officer Technical Representative* policy memorandum (Action: A/OPE)

GOVERNMENT TECHNICAL MONITOR TRAINING AND QUALIFICATIONS

Four ARRA contracts were delivery orders. Two of these contracts have a GTM appointed to ensure that the goods are received in accordance to the terms of the contract. Although OMB has not issued any guidance for GTMs, the Department has the same training requirements for GTMs in the Department of State Acquisition Regulations 642.271(b) and in 14 FAH-2 H-145 (b) that apply to CORs. The OIG team found that GTMs have either taken the 40 initial points of COR training or have attended the one-day COR training session provided by A/OPE. COR training information was not included in the contract files to support their qualifications.

RECOMMENDATIONS

Recommendation 1: The Office of Acquisitions Management, in coordination with the Office of the Procurement Executive, should establish and implement a tracking system to document and monitor the training requirements stated in the Federal Acquisition Certification in Contracting policy memorandum, including the requirement that contracting officers must have 80 continuous learning points every two years. (Action: A/LM/AQM, in coordination with A/OPE)

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PRINCIPAL OFFICIALS

	Name	Arrival Date
Procurement Executive	Corey Rindner	August 2003
Director, Acquisition Management	Cathy Read	September 2002

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ABBREVIATIONS

ACMIS	Acquisition Career Management Information System
A/LM/AQM	Office of Acquisitions Management
ARRA	American Recovery and Reinvestment Act
A/OPE	Office of the Procurement Executive
CO	Contracting officer
CLP	Continuous learning point
COR	Contracting officer's representative
FAC-C	Federal Acquisition Certification in Contracting
FAC-COTR	Federal Acquisition Certification for Contracting Officer Technical Representatives
FAI	Federal Acquisition Institute
GAO	U.S. Government Accountability Office
GSA	General Services Administration
GTM	Government Technical Monitor
IBWC	International Boundary and Water Commission
OFPP	Office Federal Procurement Policy
OIG	Office of Inspector General
OMB	Office of Management and Budget

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APPENDIX A: AMERICAN RECOVERY AND
REINVESTMENT ACT-FUNDED CONTRACTS REVIEWED

The table below summarizes the 11 contracts that the inspection team reviewed. The list was provided by A/LM/AQM on July 13, 2009.

<u>Contract Number</u>	<u>Award Date</u>	<u>Description</u>	<u>Amount</u>
SAQMMA09F1359	5/1/2009	IT equipment: Desktops and monitors	\$ 4,401,329.51
SAQMMA07F2149-Mod 2	5/13/2009	Tier 2 Technical Support	\$ 507,648.00
SAQMMA09L0369-Mod 5	5/22/2009	Capital Planning Investment Control Project	\$ 947,817.48
SAQMMA07F1066-Mod 12	6/1/2009	Technical Support for the Systems Integrity Division	\$ 947,817.48
SAQMMA09F1591	6/2/2009	A/E services for planning, design, commissioning, and other support services for the data center	\$ 3,114,215.00
SAAQM08F3448-Mod 6	6/5/2009	Cybersecurity Training Program	\$ 483,220.55
SAQMMA09M1175	6/19/2009	Enterprise License for Biometric Readers	\$ 131,000.00
SAQMMA09F1953	6/24/2009	Replace or Enhance ONE / Mobile Computing capabilities	\$ 990,000.00
SAQMMA09F1964	7/8/2009	Reconstruction Appliances	\$ 74,500.00
SAQMMA09F1965	7/8/2009	Agilent Equipment, Generator and Training	\$ 79,422.93
SAQMMA09C0175	7/15/2009	Biometric Readers	\$ 5,875,000.00

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