



Office of Inspector General

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

Office of Audits

**Audit of Contracting Officers'
Delegated Procurement Authority
for Overseas Contract Awards**

Report Number AUD/CG-12-33, June 2012

~~Important Notice~~

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PREFACE

This report is being transmitted 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 as part of the Office of Inspector General's (OIG) responsibility to promote effective management, accountability, and positive change in the Department of State (Department) and the Broadcasting Board of Governors.

This report addresses compliance with Federal and Department regulations for contracting officers and specific requirements for contracting officers not to exceed their delegated procurement authorities for overseas contract awards. The report is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

OIG contracted with the independent public accountant Kearney & Company, P.C., to perform this audit. The contract required that Kearney & Company perform its audit in accordance with guidance contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States. Kearney & Company's report is included.

Kearney & Company found that for overseas contract actions totaling \$2.5 billion over a 3-year period that the Department was in compliance with applicable regulations and that the impact of contracting officers exceeding their warrant authority was minor. The report did recognize areas to strengthen related internal controls.

OIG evaluated the nature, extent, and timing of Kearney & Company's work, monitored progress throughout the audit, reviewed Kearney & Company's supporting documentation, evaluated key judgments, and performed other procedures as appropriate. OIG concurs with Kearney & Company's findings, and the recommendations contained in the report were developed on the basis of the best knowledge available and were discussed in draft form with those individuals responsible for implementation. OIG's analysis of management's response to the recommendations has been incorporated into the report. OIG trusts that this report will result in more effective, efficient, and/or economical operations.

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

A handwritten signature in blue ink that reads "Robert B. Peterson for".

Harold W. Geisel
Deputy Inspector General

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Office of Inspector General
U.S. Department of State
Washington, D.C.

Kearney & Company, P.C. (referred to as “we” in this letter), is pleased to submit this performance audit report related to the evaluation of the extent to which the Department of State’s (Department) contracting officers (CO) exceeded their delegated procurement authority for contracts that are awarded overseas. This audit was requested by the Department’s Office of Inspector General (OIG) as a result of a control deficiency identified during the FY 2010 financial statement audit of the Department.

This audit was designed to meet the objective identified in the section “Objective” of the report and in Appendix A, “Scope and Methodology” except where specific limitations were noted. Findings and recommendations for overseas contract actions are provided in this audit report; domestic contract actions were previously reported by OIG in its report *Audit of Contracting Officers Exceeding Delegated Procurement Authority* (AUD/CG-12-26, March 2012).

Similar to the March 2012 report, we were unable to determine the reliability of the contract actions population for overseas contract actions because of certain limitations, which are detailed in Appendix A.

To provide quantitative information about the nature of unauthorized commitments, specifically COs’ exceeding their delegated authority on overseas contract actions, and to highlight root causes of the deficiency, we present the data as reported by the Department.

We conducted this performance audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. The purpose of this report is to communicate the results of our audit and its related findings and recommendations.

We would like to thank the Department offices involved for their cooperation during this audit.



Kearney & Company, P.C.
Alexandria, Virginia
February 17, 2012

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Acronyms

A/OPE	Bureau of Administration, Office of the Procurement Executive
A/LM/AQM	Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management
CAP	corrective action plan
CO	contracting officer
CS	contracts specialist
Department	Department of State
DOSAR	Department of State Acquisition Regulations
FAR	<i>Federal Acquisition Regulation</i>
GFMS	Global Financial Management System
Kearney	Kearney & Company, P.C.
OIG	Office of Inspector General
RM	Bureau of Resource Management

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Executive Summary

Kearney & Company, P.C. (referred to as “we” in this report), conducted a performance audit to determine the extent to which contracting officers (CO) were exceeding their delegated procurement authority for the award of overseas contracts. We also identified the amount of obligations related to Department contract actions (excluding grants and cooperative agreements) that exceeded the delegated procurement authorities of the COs and therefore represented unauthorized non-binding agreements. To conduct this audit, we attempted to complete a sampling-based approach to project the dollar value of contract actions initiated or modified during FYs 2008–2010 for which the assigned COs exceeded their delegated procurement authority. This audit was requested by the Department of State (Department), Office of Inspector General (OIG), as a result of a control deficiency identified during the FY 2010 financial statement audit of the Department.

This report is being issued subsequent to the March 2012¹ OIG report on domestic contract actions. Similar to the March report, we found that the completeness and reliability of the contract actions population for either domestic or overseas contract actions could not be determined because of certain reporting limitations in the Global Financial Management System (GFMS). For the contract actions tested, we identified cases in which contracting authority was exceeded and actions were not ratified. Fieldwork was originally scheduled to end as of October 15, 2011, but it was extended until February 17, 2012, for overseas contracts to allow for additional time to obtain supporting documentation for overseas contract actions.

Overall, we determined that COs issuing awards overseas were complying with the limits of their delegated warrant authorities. Specifically, based on our sample of 105 overseas contract actions, totaling approximately \$125 million, entered into by the Department from FYs 2008–2010, we identified three overseas contract actions in which the Department was unable to provide sufficient evidence to demonstrate that the signing official had the appropriate warrant authority or that an approved waiver had been received. Two of the three contract actions were significant, with awards made in excess of about \$900,000 over the CO’s delegated warrant authority. Internal controls were not in place to identify these unauthorized commitments and to periodically compare overseas contract actions with the COs’ warranted authority.

Our recommendations to the respective bureaus, offices, and overseas posts focused on compliance with Federal and Department regulations and authorities governing the limits of contractor warrant authority and on improving internal controls related to overseas contract award actions. Responses from Embassy Mexico City (Mexico), Embassy Abu Dhabi (United Arab Emirates), and Embassy Pretoria (South Africa) are in Appendices B, C, and D, respectively, and the response from the Bureau of Administration’s Office of the Procurement Executive (A/OPE) is in Appendix E.

Embassy Mexico City, Embassy Abu Dhabi, and A/OPE concurred with the recommendations addressed to them, but Embassy Pretoria did not concur with its

¹ *Audit of Contracting Officers Exceeding Delegated Procurement Authority* (AUD/CG-12-26, March 2012).

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recommendation. As a result, three recommendations are considered resolved, pending further action, and one recommendation is unresolved.

Management's comments have been considered and incorporated into the report as appropriate, and management's responses to the recommendations and OIG's analyses are presented after each recommendation.

Background

We were separately engaged by OIG to audit the financial statements of the Department as of September 30, 2010. In planning and performing our financial statement audit work, we conducted testing of the internal controls over the Department's procurement and payment processes.

Our test work over internal controls related to these processes identified a deficiency related to the controls over contract authority delegated to COs. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements and/or noncompliance with laws and regulations on a timely basis.

As part of the FY 2010 financial statement audit, we tested 139 obligations and disbursement transactions to ensure that the CO who had signed the obligating documents had the proper authority to enter into the respective contracts. Of the contract actions tested, we identified 22 contract actions in which we could not confirm that the CO had proper warrant authority. We found that the Department did not have an effective process to ensure that COs adhered to the level of procurement authority delegated to them by the Department. In several instances, additional evidence was provided to clear the FY 2010 exceptions subsequent to the FY 2010 financial statement audit.

The *Federal Acquisition Regulation*² (FAR) states that contracts may be entered into and signed on behalf of the Government only by contracting officers. The FAR³ further states the following:

Contracting officers have authority to enter into, administer, or terminate contracts and make related determinations and findings. Contracting officers may bind the Government only to the extent of the authority delegated to them. Contracting officers shall receive from the appointing authority clear instructions in writing regarding the limits of their authority.

Failure to follow these regulations is a violation that creates an unauthorized commitment.

² FAR 1.601(a), "Career Development, Contracting Authority, and Responsibilities—General."

³ FAR 1.602-1(a), "Authority."

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An “unauthorized commitment” is defined in the FAR⁴ as “an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.” Unauthorized commitments violate Federal law, Federal regulations, the Government-wide Standards of Conduct for Federal Employees, and Department acquisition regulations. The process for converting an unauthorized commitment to a legal contract is called “ratification,” which the FAR⁵ defines as “the act of approving an unauthorized commitment by an official who has the authority to do so.” A CO who exceeds delegated authority may make improper purchases, which increases the risk of waste, fraud, or abuse. In addition, agreements for large dollar amounts are frequently complex. If a CO executes agreements above his or her delegated authority, the CO may not have the appropriate training, experience, or knowledge to properly execute the agreement. Without a formal ratification of unauthorized commitments, the Government is not bound by the agreement, which places additional risk on the vendor of not being paid for goods and services delivered.

Department of State Acquisition Regulations (DOSAR)⁶ require all unauthorized commitments in excess of \$1,000 to be submitted to the Department Procurement Executive for ratification. The DOSAR requires substantial written documentation for the ratification to be considered by the Procurement Executive, including a signed statement of the facts discussing why normal acquisition procedures were not followed, a statement as to why the CO should not be personally liable for the cost, a statement as to whether the CO has ever been responsible for any other unauthorized commitments in the Department, and a statement as to the number of unauthorized commitments processed by the responsible office within the last three calendar years and the circumstances surrounding each of these actions. The responsible bureau, office, or overseas post is required to clear the ratification request prior to final review and adjudication by the Procurement Executive.

Objective

The objective of this audit was to determine the extent to which COs awarding overseas contracts exceeded their delegated procurement authority. We also identified the amount of obligations related to Department contract actions (excluding grants and cooperative agreements⁷) that exceeded the COs’ delegated procurement authorities and therefore represented unauthorized, non-binding agreements. We took the following actions:

- Determined the impact of unauthorized commitments on the Department.
- Identified the root causes of the control deficiencies that could enable unauthorized commitments.

⁴ FAR 1.602-3(a), “Ratification of Unauthorized Commitments.”

⁵ Ibid.

⁶ DOSAR 601.602-3, “Department of State Acquisition Regulation System–Ratification of unauthorized commitments.”

⁷ An agency may provide financial assistance through various types of transactions, including grants and cooperative agreements. These types of contractual instruments are outside the scope of this audit and require separately issued authority.

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- Determined whether the Department had developed any corrective action plans (CAP) for the control deficiencies noted.
- Made recommendations on how the Department could better address the root causes of the control deficiencies if necessary.

Results of Audit

With 141,562 overseas contract actions⁸ for FYs 2008–2010, totaling \$2.5 billion, contracting officers overall were complying with the limits of their delegated warranted authorities set by the Bureau of Administration, Office of the Procurement Executive (A/OPE).⁹ Based on our sample of 105 overseas contract actions, totaling approximately \$125 million, entered into by the Department from FYs 2008–2010, we identified three overseas contract actions in which the Department was unable to provide sufficient evidence to demonstrate that the signing official had the appropriate warrant authority or that an approved waiver had been received. During FYs 2008–2010, overseas posts reported 151 unauthorized commitments, totaling \$8.9 million, to A/OPE for review and action. However, internal controls were not in place to prevent or identify the three unauthorized commitments we identified. Therefore, without formal ratification for previously unknown unauthorized commitments, the Department was not in compliance with provisions of FAR 1.602-3(a).

We were unable to review a CAP to remediate the control deficiency for delegated contract authority noted in the FY 2010 financial statement audit of the Department. This occurred because the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM), did not agree that a control deficiency existed. Therefore, a formal CAP was not developed between the end of the FY 2010 financial statement audit and the initiation of this performance audit.

Finding A. Three Overseas Contracting Officers Exceeded Their Warranted Authority Without Ratification

Of 105 contract actions sampled, we identified three instances (2.9 percent) in which the CO exceeded his or her warranted authority without proper ratification. Focusing on a population of overseas contract actions that took place from FYs 2008–2010, we obtained a copy of the contract and the CO's warrant to determine whether the person signing the contract had sufficient warrant authority. The three instances were determined using information provided by the Department in response to our testing sample. The three instances were assigned to three different COs at three different post locations and totaled \$2.5 million in contract actions. Only one of the three COs had warrant authority as of the end of fieldwork. The three exceptions were concentrated in FY 2009. The three instances in which a CO exceeded his or her warranted authority without ratification are listed in Table 1.

⁸ Contract action totals include both obligations and deobligations. (Specific details on the overseas population are in Appendix A of this report.)

⁹ DOSAR 601.603-3, "Department of State Acquisition Regulation System—Appointment."

Table 1. Instances of Overseas Contracting Officers Exceeding Warrant Authority Without Ratification

Contract #	Amendment #	Overseas Location	Contract Amount	System Contract Date	Warrant Authority*
SMX53007C0001	M004	Embassy Mexico City	\$ 1,151,713.86	2/20/2009	\$ 250,000.00
STC10009M1645	0	Embassy Abu Dhabi	\$ 1,150,000.00	9/29/2009	\$ 250,000.00
SSF75009M0652	0	Embassy Pretoria	\$ 239,786.97	3/3/2009	\$ 100,000.00

*These amounts represent commercial warrant authority for commercial supplies and services.

Source: Federal Procurement Data System – Next Generation (FPDS-NG).

Representatives from U.S. Embassy Mexico City, Mexico, stated that A/OPE’s waiver of authority¹⁰ had been requested and obtained but that only the approval for the base contract (including the option year) was provided. The contract action tested was a 6-month extension to the option year and was not covered by prior approvals. Embassy representatives were unable to provide documentation showing that A/OPE approval had been requested or received for this specific modification.

The former Financial Management Officer at U.S. Embassy Abu Dhabi stated that A/OPE approval had not been obtained because funding was received at the end of the fiscal year and that the procurement needed to be completed within 48 hours before the funding expired.

For the one contract deficiency found at U.S. Embassy Pretoria, South Africa, the then-Embassy procurement office supervisor stated that the contract solicitation was performed by a CO who had a sufficient warrant authority of \$250,000 but that at the time of award, the CO could not perform the duties required because of an emergency situation. Because the CO was not available to sign the contract, a backup CO signed the contract in the CO’s absence. The backup CO had only a \$100,000 warrant authority, which was not sufficient for the contract action at \$239,786.97. During discussions, the Embassy Pretoria procurement office supervisor stated that embassy officials were not aware that the backup CO had signed a contract over warranted authority and that it had created an unauthorized commitment. However, in response to a draft of this report, the post’s Management Officer disagreed that an unauthorized commitment had occurred, stating that the primary CO had left verbal authority for the backup CO to approve the contract in her absence.

Because of the high risk of contract award and administration activities in Iraq and Afghanistan, OIG judgmentally selected six contract actions and found that all award actions had been executed properly. These awards covered the Bureaus of Near Eastern Affairs and South and Central Asian Affairs at Embassies Baghdad and Kabul, respectively, with a total contract award amount of \$3.3 million.

¹⁰ A waiver of authority is a one-time approval by the Office of the Procurement Executive that allows a contracting officer a higher warrant authority for a specific contract award action.

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Recommendation 1. OIG recommends that the Management Counselor, Embassy Mexico City, Mexico, assess the identified unauthorized commitment to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Embassy Mexico City Response: The Management Counselor agreed with the recommendation to assess the identified unauthorized commitment to determine whether ratification is appropriate.

OIG Analysis: Based on the response, OIG considers the recommendation resolved, pending further action. The recommendation can be closed when OIG reviews and approves documentation showing that the embassy has completed its assessment of the identified unauthorized commitment to determine whether ratification is appropriate.

Recommendation 2. OIG recommends that the Management Counselor, Embassy Abu Dhabi, United Arab Emirates, assess the identified unauthorized commitment to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Embassy Abu Dhabi Response: The Management Counselor concurred with the recommendation, stating that the embassy had determined that “a ratification would be appropriate” and that a draft ratification package had been submitted to A/OPE in March 2012.

OIG Analysis: Based on the response, OIG considers the recommendation resolved, pending further action. The recommendation can be closed when OIG reviews and approves documentation for the final ratification package to A/OPE. To ensure that a potential year-end spending violation did not occur, OIG also requests documentation showing the vetting and approval of this acquisition by the Office of Overseas Schools and the Bureau of Near Eastern Affairs and documentation showing that funds for this acquisition had been received “48 hours prior to the close of the fiscal year.”

Recommendation 3. OIG recommends that the Management Counselor, Embassy Pretoria, South Africa, assess the identified unauthorized commitment to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Embassy Pretoria Response: The Management Counselor disagreed that this action constituted an unauthorized commitment. The Management Counselor stated the primary CO “integrally managed the entire acquisition process, from solicitation, competitive process, contract award, and contract administration” and that “the back-up CO approved the contract based on the primary CO’s verbal authority to approve it in her absence.”

OIG Analysis: As stated in FAR 1.602-1(a), “Authority,” “Contracting officers shall receive from the appointing authority clear instructions in writing regarding the limits of their authority.” Therefore, according to that FAR section, warrant authority can come

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only from A/OPE, and a CO cannot delegate warrant authority to another officer. Since the backup CO did not have sufficient warrant authority to enter into that agreement on behalf of the Department, Contract No. SSF75009M0652 should be considered an unauthorized commitment and should be submitted to A/OPE for it to determine whether ratification is necessary.

This recommendation is unresolved. OIG requests that the embassy reconsider its response to the recommendation and take the actions recommended. This recommendation can be considered resolved if Embassy Pretoria concurs with the recommendation and can be closed when OIG reviews and accepts documentation showing that Embassy Pretoria has submitted the ratification package to A/OPE.

Finding B. Monitoring Controls To Identify Overseas Unauthorized Commitments Need To Be Strengthened

A/OPE did not have a formal monitoring control to proactively identify overseas unauthorized commitments and ensure that ratification occurred on all unauthorized commitments exceeding \$1,000. Since an automated procurement system control preventing COs from entering into agreements beyond their warranted authority did not exist, A/OPE relied on an extensive communication, certification, and training plan to issue warrants and inform warranted officials of their responsibilities and limitations.

During fieldwork, we noted that A/OPE processes and procedures¹¹ to identify unauthorized commitments for commercial supplies and services were reactive in nature and relied on COs' creating overseas unauthorized commitments or cognizant management officials reviewing the procurement to notify A/OPE of the need for ratification. As previously noted, overseas posts reported 151 unauthorized commitments to A/OPE during FYs 2008–2010, but only 45 unauthorized commitments were made by individuals who had warrant authority at one time in their careers. A/OPE maintained a ratification database to track known requests for ratification, but it could not ensure that this database was complete or that it captured all instances in which a CO exceeded his or her warranted authority. Most of the 151 cases were attributable to individuals who did not have contract warrant authority at their assigned post or who had contract warrants that had expired. The main cause of unauthorized commitments was that individuals who were not active COs or who had never had warrant authority entered into contracts. While this audit identified only three unidentified unauthorized commitments from a sample of 105 commitments, the additional 151 known unauthorized commitments reinforces the need for added controls at the A/OPE level.

We found that communications issued through the A/OPE Web site and Intra-Departmental procurement circular, including A/OPE's Overseas Contracting and Simplified Acquisition Guidebook, reinforced A/OPE's overseas policy. However, further controls were needed to detect unauthorized commitments. While A/OPE leveraged a continuous learning model to offer refresher training and briefings to overseas warranted officials, including

¹¹ The Overseas Contracting and Simplified Acquisition Guidebook.

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information on the severity of unauthorized commitments, these training and communication strategies did not prevent or detect the creation of overseas unauthorized commitments. An automated procurement system control that links warrant authority to requisition amounts would prevent COs from exceeding their authority without an authorized waiver. In the absence of an automated control, given the cost to design and modify existing procurement systems, a manual control to detect unauthorized commitments is recommended.

Recommendation 4. OIG recommends that the Procurement Executive, Bureau of Administration, Office of the Procurement Executive, develop either an automated control or a manual control to compare overseas contract actions against warranted authority at least annually and, if potential unauthorized commitments are identified, request that post determine whether ratification is appropriate.

A/OPE Response: A/OPE concurred with the recommendation, stating that it would “either request funding for an automated control or implement a manual control if resources are available to compare overseas actions against warranted authority at posts.”

OIG Analysis: Based on the response, OIG considers the recommendation resolved. The recommendation can be closed when OIG reviews and accepts documentation showing that a determination for the design and implementation of a manual or automated control has been completed.

List of Recommendations

Recommendation 1. OIG recommends that the Management Counselor , Embassy Mexico City, Mexico, assess the identified unauthorized commitments to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Recommendation 2. OIG recommends that the Management Counselor, Embassy Abu Dhabi, United Arab Emirates, assess the identified unauthorized commitment to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Recommendation 3. OIG recommends that the Management Counselor, Embassy Pretoria, South Africa, assess the identified unauthorized commitment to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Recommendation 4. OIG recommends that the Procurement Executive, Bureau of Administration, Office of the Procurement Executive, develop either an automated control or a manual control to compare overseas contract actions against warranted authority at least annually and, if potential unauthorized commitments are identified, request that post determine whether ratification is appropriate.

Scope and Methodology

Kearney & Company, P.C. (referred to as “we” in this appendix), assessed performance criteria for this audit based on *Federal Acquisition Regulation* and Department of State Acquisition Regulations. We focused on the impact and analysis of the root causes of the control deficiencies and the need for development of corrective action plans (CAP). The scope of the audit included contract actions initiated or modified during FYs 2008–2010.

This audit was conducted 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 objective.

In the Planning Phase of the audit, we developed an understanding of the process for delegating warranted authority, determined training and certification requirements, and identified controls in place to monitor the assignment of warrant authority. Additionally, we gained an understanding of the Department of State’s (Department) ratification procedures and controls. The main goal of the Planning Phase was to identify the Department’s established internal controls for preventing and ratifying unauthorized commitments.

In the Testing Phase, we developed performance audit criteria, which were accepted by the Office of Inspector General (OIG). To test the Department’s compliance with procurement regulations, we attempted to obtain two separate populations of contract actions from FYs 2008–2010. The actions were identified as contract actions completed domestically, which were evaluated at 100 percent, or contract actions completed overseas, which were sampled based on identification of high-risk posts, countries, bureaus, and regions. For the overseas contracts, we targeted locations with a large number of contract actions over \$250,000. In addition, we focused on higher risk posts (Iraq and Afghanistan) and secured procurements. A random sample from the combined population was used to select the sample. As noted in the report section “Executive Summary,” we were unable to verify the reliability of the contract actions population for either domestic or overseas contract actions because of certain reporting limitations in the Global Financial Management System (GFMS). GFMS does not interface with the necessary procurement information from overseas procurement systems to confirm a complete and accurate overseas contract actions population.

The Department was unable to provide sufficient audit evidence for overseas contract actions before the initial fieldwork was completed on October 15, 2011. As a result, fieldwork for overseas contract actions was extended to February 17, 2012. This report is being issued subsequent to the March 2012 OIG¹ report on domestic contract actions. Findings and recommendations for overseas contract actions are provided in this audit report, and findings and recommendations for domestic contract actions were reported in OIG’s March 2012 report.

¹ *Audit of Contracting Officers Exceeding Delegated Procurement Authority* (AUD/CG-12-26, March 2012).

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After reviewing all documentation provided by the post and the Bureau of Administration, Office of the Procurement Executive (A/OPE), we followed up with the General Services Officers and contracting officers (CO) at the four posts (Embassy Pretoria, South Africa; Embassy Mexico City, Mexico; Embassy Bogota, Colombia; and Embassy Baghdad, Iraq) that had potential unauthorized commitments. We requested any additional documentation that had not been provided previously and determined the causes of the unauthorized commitments. In addition, we contacted A/OPE to determine whether it had any documentation showing prior approval of the contract actions. During followup discussions with selected posts, we were able to resolve open questions and potential exceptions for Embassies Bogota and Baghdad.

We leveraged multiple procurement data sources, including GFMS and the Federal Procurement Data System – Next Generation² (FPDS-NG), to develop a complete population of contract actions from FYs 2008–2010, but we were unable to confirm the completeness and accuracy of the population. Nevertheless, in order to provide quantitative information about the nature of unauthorized commitments, specifically COs exceeding warranted authority, and to highlight root causes of the deficiency, this report presents the data as reported by the Department and acquired through FPDS-NG.

We conducted an exit conference with officials from the Bureau of Administration, Office of the Procurement Executive, and the Bureau of Resource Management (RM) on March 23, 2012, and discussed the results of this report. The officials concurred with the draft report's findings.

Review of Internal Controls

During our review of internal controls, we determined whether contracts were entered into within a CO's warranted authority and whether Federal and Department standard processes and procedures were followed by taking the following actions:

- We performed walkthroughs and interviews to gain an understanding of the Department's internal control processes related to the issuance of warrant authority and the processes for identifying and ratifying unauthorized commitments. We also confirmed that corrective action plans were not prepared to address the deficiency.
- We performed walkthroughs and conducted interviews to gain an understanding of the Department's waiver-of-authority process in which A/OPE was involved in approving contracts in excess of a CO's warranted authority.
- We held discussions with officials at various posts to determine the procedures related to those contracts in excess of a CO's warranted authority.
- We reviewed the A/OPE ratification database for known unauthorized commitments during the years in the scope. However, we did not verify the nature of the unauthorized

² FPDS-NG is the contract actions reporting Web site developed and managed by the General Services Administration. FPDS-NG provides real-time contract information to support policy development, trend analysis, and special reporting for the President, Congress, agency executives, and the public. Federal Acquisition Regulation 4.603(b), "Contract Reporting-Policy," requires that agencies report in FPDS-NG all contracts for which the estimated value is \$3,000 or more and any modifications to those contracts regardless of dollar amount.

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commitments or determine whether the contract actions met all the procurement standards.

Use of Computer-Processed Data

We used computer-processed data found in GFMS, FPDS-NG, and the internally developed warrant authority database. GFMS did not have a standardized reporting process in place to ensure the completeness, timeliness, and accuracy of contract actions information, as noted in OIG's March 2012 report.



Embassy of the United States of America

May 9, 2012

Harold W. Geisel
Deputy Inspector General
Office of the Inspector General
Washington, DC

Dear. Mr. Geisel,

Embassy Mexico City agrees with Recommendation 1 of the OIG's draft report *Audit of Contracting Officers Exceeding Delegated Procurement Authority for Overseas Contract Awards*. The primary contracting officer in 2009, who is no longer in Mexico City, remembers obtaining A/OPE's waiver of authority prior to the signing of the subject contract. However, to date she has not been able to locate a copy of the authorization, nor has Embassy Mexico City's contracting office been able to locate a copy in our records.

Sincerely,

A handwritten signature in black ink, appearing to read "Roberto Brady", written over the word "Sincerely,".

Roberto Brady
Minister-Counselor for Management Affairs, Acting



Embassy of the United States of America

May 9, 2012

Mr. Harold Geisel
Deputy Inspector General
Office of the Inspector General
U.S. Department of State

Subject: Draft Report – Audit of Contracting Officers Exceeding Delegated Procurement Authority for Overseas Contract Awards, AUD/CG-XX-XX, April 2012

Mr. Geisel:

Following are Embassy Abu Dhabi's comments on the draft subject report and recommendation pertaining to post.

Recommendation 2: OIG recommends that the Management Counselor, Embassy Abu Dhabi, United Arab Emirates, assess the identified unauthorized commitment to determine whether ratification was appropriate and, if so, complete the ratification process as described in Department of State Acquisition Regulations (subpart 601.602-3).

Status: Concur with the recommendation. This order was unique in that it was for the permanent acquisition of 23 places (seats) at [REDACTED] for current and future Department of State dependents. The acquisition of these places was fully vetted and approved by the Department's Office of Overseas Schools and the Bureau prior to the actual acquisition. Due to the last minute receipt of the funds (48 hours prior to the close of the fiscal year) post had to quickly determine a method of delivering these funds to the school or risk losing both the spaces and the funds. Neither a grant nor a Purchase Order seemed a fully appropriate vehicle given the situation. [REDACTED] at the time, a grant seemed the least appropriate of the two actions and a Purchase Order was issued. It is understandable, given the uniqueness of the action, that additional explanation is required. Post has reviewed the action, determined that a ratification would be appropriate and initiated the ratification process with A/OPE. A first draft of the ratification package was sent to A/OPE in March, 2012.

A handwritten signature in blue ink, appearing to read "Kristi Hogan".

Kristi Hogan
Management Counselor

Cc: Evelyn Klemstine, Assistant Inspector General for Audits



*Embassy of the United States of America
Pretoria, South Africa*

May 7, 2012

Evelyn R. Klemstine
Assistant Inspector General for Audits
Office of Inspector General

Ms. Klemstine:

The U.S. Embassy, Pretoria, supports the Office of Inspector General (OIG) process, respects the review process and appreciates this opportunity to respond to the OIG's findings that contract SSF75009M0652 constituted an unauthorized commitment. Embassy Pretoria respectfully disagrees with the finding that the contract SSF75009M0652 for conference services, in the sum of \$239,786.97 and approved on 3 March 2009, is an unauthorized commitment.

Embassy Pretoria's Contracting Officer (CO) with the regular contracting warrant of \$250,000 integrally managed the entire acquisition process, from the solicitation, competitive process, contract award, and contract administration. The only step where the CO could not be present was to press the approval button in the Webpass system for the creation of the computer-generated purchase order. As stated in the report, this was because the primary CO had a family emergency and had to be away from Post for a few days in 2009, and the backup CO with provisional warrant of \$100,000 had to act on her behalf and approve the order in the Webpass system. The back-up Contracting Officer approved the contract based on the primary Contracting Officer's verbal authority to approve it in her absence. The primary Contracting Officer also left instructions that the contract not be approved until funds were made available, which they were when the back-up CO provided approval.

Post believes this situation was a result of two factors: the limitations of the Webpass system for electronic approval of purchase orders, and the fact that the backup CO had a provisional contracting warrant. The Embassy has subsequently ensured that the primary and backup COs have regular contracting warrants of \$250,000, thereby avoiding situations such as the one above. Additionally, the current Ariba-based procurement system has greater capabilities than the old Webpass system – most specifically, the feature to delegate one's authority to another Contracting Officer. Thus a CO who needs to be away for from Post can delegate their contracting authority to other appropriately warranted COs within the Mission, allowing the CO at another Post within the Mission to approve procurements in the Ariba system. Had this flexibility been available in the old Webpass system, the above-mentioned situation would have been avoided.

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Should you have any questions, please contact me at +27-12-431-4230 or by email at JacksonC4@state.gov.

Sincerely



Cherie Jackson
Management Counselor

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United States Department of State

Washington, D.C. 20520

May 23, 2012

MEMORANDUM

TO: OIGAUD - Evelyn R. Klemstine

FROM: A/OPE- Corey M. Rindner *Corey Rindner*

SUBJECT: Draft Report on Audit of Contracting Officers Exceeding Delegated Procurement Authority for Overseas Contract Awards dated April 24, 2012

Below is A/OPE's response to Recommendation 4 of the subject draft Audit of Contracting Officers Exceeding Delegated Procurement Authority for Overseas Contract Awards. Paulette Donnelly is the point of contact on this recommendation and she can be reached on 703 516-1697.

Recommendation 4: OIG recommends that the Procurement Executive, Bureau of Administration, Office of the Procurement Executive, develop either an automated control or a manual control to compare overseas contract actions against warranted authority at least annually and, if potential unauthorized commitments are identified, request that post determine whether ratification is appropriate.

A/OPE Response: A/OPE concurs with recommendation No. 4 and will either request funding for an automated control or implement a manual control if resources are available to compare overseas actions against warranted authority at posts.

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