



Audit Report



OIG-09-048

CDFI Fund Contract Administration and Personnel Management Practices Need Improvement

September 17, 2009

Office of
Inspector General

Department of the Treasury

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Abbreviations

ARC	Bureau of the Public Debt’s Administrative Resource Center
BPD	Bureau of the Public Debt
CDE	Community development entity
CDFI	Community development financial institution
COTR	Contracting officer technical representative
DTAR	Department of the Treasury Acquisition Regulation
FAR	Federal Acquisition Regulation
Fund	Community Development Financial Institutions Fund



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*The Department of the Treasury
Office of Inspector General*

September 17, 2009

Donna J. Gambrell, Director
Community Development Financial Institutions Fund

We performed an audit of the procurement process that the Community Development Financial Institutions Fund (Fund) used for its information technology (IT) development and support contracts, currently valued at approximately \$19 million. The objective of this audit, conducted at the request of the Fund Director, was to determine whether the Fund's contract administration practices for its IT development and support contracts with General Dynamics and Kearney & Company complied with the Federal Acquisition Regulation (FAR) and the Department of the Treasury Acquisition Regulation (DTAR). During our audit, we also became aware of a possible deficiency related to the Fund's personnel management practices and expanded our review to cover that matter. Our objective, scope, and methodology are described in more detail in appendix 1.

In brief, we found that the Fund did not comply with FAR and DTAR requirements in its administration of the General Dynamics IT support contracts. The Fund, however, did properly administer the smaller Kearney & Company contract. With respect to personnel management practices, we found the Fund did not document its justification for a noncompetitive promotion of a Fund employee from GS-13 to GS-14 in July 2006, and was unable to provide us with the employee's related position description during our review.

In July 2008, we issued a memorandum to the Fund Director regarding FAR requirements for exercising contract options. We issued this memorandum because of our concerns with the Fund's deficient contract administration documentation and the

fact that the option period for the General Dynamics contract was set to expire in September 2008. Accordingly, the Fund needed to either exercise the next option under its contract with General Dynamics or solicit a new contract. In our memorandum, we advised the Fund that if the decision was to exercise the option, it should work with the contracting office to ensure that a written determination was prepared to document that exercising the option was the most advantageous method of fulfilling the government's needs. The Fund subsequently exercised its option with General Dynamics in September 2008. However, the Fund did not prepare a written determination that this was the most advantageous course of action. The lack of a written determination was particularly surprising to us in light of our memorandum. It also calls attention to a pattern at the Fund of not following procurement requirements.¹ Accordingly, we believe that contract administration is an area that requires heightened and continued attention by the Fund's senior management.

In a written response, the Fund Director concurred with the six recommendations we are making in this report and management's planned corrective actions are responsive to the recommendations. The response is included as appendix 2.

Background

The Fund is a government corporation housed within the Department of the Treasury. It promotes economic revitalization and community development through investments in and assistance to community development financial institutions (CDFIs). The Fund provides competitive grants, loans, and tax credit allocations to CDFIs and community development entities (CDEs) that meet the Fund's criteria. From its creation in 1994 through the end of fiscal year 2008, the Fund has awarded \$949 million to community development organizations and

¹ In October 2000, we reported on deficiencies related to consultant contracts going back to 1996, as well as the contract vehicle used to procure services from an accounting firm (OIG, *Procurement Practices at the Community Development Financial Institutions Fund*, OIG-01-012, Oct. 17, 2000). These matters were also the subject of a June 1998 congressional report.

financial institutions and \$19.5 billion in allocations of New Markets Tax Credits to attract private-sector investments in low-income communities.

The Fund’s current contract with General Dynamics, valued at about \$2.7 million a year, represents approximately 20 percent of the Fund’s \$13.7 million fiscal year 2008 annual administrative operating budget. Table 1 shows the IT support contracts issued to General Dynamics that we reviewed and the corresponding outside agencies—the Federal Aviation Administration, the General Services Administration, and the Department of Commerce—used by the Fund to help meet its contracting needs. Although the Fund used these agencies for contracting officer services, the Fund was responsible for contract administration activities.

Table 1. Contracting Agencies for General Dynamics Contracts

Performance Period	Description	Contracting Agency ¹
5/17/99-9/30/03	Base + 4 option years	Federal Aviation Administration
10/1/03-9/18/05	Base + 1 option year	General Services Administration
9/19/05-9/18/07	Base + 4 option years	Department of Commerce ²
9/19/07-9/18/10	Option years 2 through 4	General Services Administration

Source: OIG Analysis

¹ We also found some evidence that prior to May 1999, the Internal Revenue Service provided the Fund with contracting services related to General Dynamics.

² The Department of Commerce transferred the contract to the General Services Administration in September 2007.

The Fund obtained the contract with Kearney & Company through the Bureau of the Public Debt’s Administrative Resource Center (ARC), a component of the Treasury Franchise Fund. The contract, a 10-year blanket purchase order agreement valued at approximately \$3.7 million, requires Kearney & Company to design, develop, maintain, and administer the Fund’s Community Investment Impact System. That system maintains data on CDFIs and CDEs.

Findings and Recommendations

Finding 1 Key Contract Administration and Decision Documentation Was Missing

The Fund could not provide documentary evidence supporting the contract administration activities performed by Fund contracting officer technical representatives (COTRs) for the General Dynamics contracts. As a result, the Fund could not demonstrate that the contractor provided the services required by the contracts. Additionally, the Fund could not provide documentation showing how it determined that using three different agencies since 1999 (the Federal Aviation Administration, the Department of Commerce, and the General Services Administration) to perform the contracting officer functions for these contracts were in the best interest of the government.

FAR 4.801 requires, among other things, the head of the office performing the contract administration function to establish and maintain files containing the records of contractual actions taken by the office. These files, together with the contracting officer's and paying office files, should constitute a complete history of the transaction to provide a basis for informed decisions at each step in the acquisition process, support actions taken, provide information for reviews and investigations, and furnish essential facts in the event of litigation or congressional inquiries. FAR 4.803(b) provides the following examples of records normally contained in the contract administration file:

- A copy of the contract and all modifications and originals of the actions executed by the contract administration office;
- Documents modifying the normal assignment of the contract administration function and responsibilities;
- Security requirements, cost or pricing data, pre-award documents, contractor purchasing system information,

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- consent to subcontract, performance bonds and other surety information;
 - Post-award documents such as conferences and meetings, orders issued, notices to proceed and stop orders, insurance information, and other post contract documents;
 - Quality assurance and surveillance plans, property administration records, and other monitoring documents;
 - Contract completion records; and
 - Other documents to reflect actions taken by or prepared by the contract administration office including correspondence between the government and the contractor.

We initially asked for the contract administration files from the Fund's former chief information officer (CIO) who was the designated COTR for the General Dynamics contracts.² He directed us to two other Fund employees, the acting CIO and the alternate COTR, to obtain the file. After we made numerous and unsuccessful requests for the contract administration files from these two Fund employees, we scheduled a group interview to discuss the status/existence of the files with all three individuals—the former CIO/COTR, the acting CIO, and the alternate COTR. During this meeting, the former CIO/COTR initially stated that he had given the official contract administration file to the Fund's Finance Manager, who was the supervisor of the alternate COTR. However, the former CIO/COTR later stated that he had given it to the Fund's records officer for destruction. The acting COTR and the alternate COTR did not comment on the statement. In a separate interview, the Fund's records officer was unable to confirm whether the COTR files in question were actually destroyed. Further, he stated that he is only responsible for reviewing documents to be destroyed to ensure the proper handling of personally identifiable information. Furthermore, he stated that he is not responsible for determining whether or which documents are to be retained or destroyed.

² The former CIO/COTR had been detailed to another federal agency before our audit.

Because we could not obtain the contract administration files for the General Dynamics contracts—either because the documents had been destroyed or were never prepared—we visited the Federal Aviation Administration, the Department of Commerce, and the General Services Administration to review their contracting officers’ files for background and other pertinent information related to the contracts. These files contained documentation on matters related to contracting officers’ actions such as establishing the contract terms and processing contract modifications. The files we reviewed did not contain information on contract administration activities or actions performed by the Fund to support the contracting officers’ decisions. It should be noted that contracting officers’ files are not intended to and do not replace documentation required to be maintained by COTRs, especially when contracting officer and contract administration duties are performed by separate entities.

Without the contract administration files, the Fund could not support decisions affecting (1) whether deliverables outlined in the contracts had been met or (2) whether invoices had been appropriately reviewed and approved. In this case, the Fund could not demonstrate that \$19 million in contract dollars for IT support services from General Dynamics were spent responsibly during the 9 year period from 1999 to 2008.

In addition to the contract administration documentation requirements of FAR 4.803(b), FAR 17.503 requires agencies that obtain supplies or services by interagency acquisition prepare a determination and findings document to support such decisions and demonstrate that the interagency agreement is in the best interest of the government. The Fund did not prepare the documentation supporting its decision to use the three outside agencies for IT support contracting services.

Recommendations

We recommend that the Fund Director do the following:

1. Reconstruct and maintain, going forward, the contract administration file for the General Dynamics contracts with all required and pertinent documentation.
2. Ensure that Fund COTRs adequately monitor contract performance, support contracting officers, and maintain contract administration files that document actions taken to fulfill contract administration responsibilities.
3. Develop and implement standard operating procedures that specify required policies and procedures for contract administration and related files, including appropriate managerial controls to comply with FAR requirements for file documentation.
4. Ensure that decisions to use interagency agreements are supported by the appropriate determination and finding in accordance with the FAR to demonstrate that using non-Treasury sources for the contract officer functions is in the best interest of the government.

Management Response

The Fund established a contract administration file in May 2009, with pertinent General Dynamic's contracts documents and implemented processes and procedures for the COTR to monitor contract performance. The Fund is also developing standard operating procedures for contract administration and related files to include appropriate managerial controls in accordance with FAR requirements and implemented processes for determining contracting officer sources and subsequent justification if the need for using non-Treasury contracting officer sources is required. The implementation date to complete planned corrective actions is March 2010.

OIG Comment

Management's corrective action taken and planned is responsive to the intent of our recommendation.

Finding 2 Personnel Management Practices Were Inadequate

The Fund did not document its justification of a noncompetitive promotion of a Fund contract specialist from GS-13 to GS-14 in July 2006. Additionally, there was no position description for this position. When properly used, the noncompetitive promotion process allows agencies to promote an employee who has performed additional duties and responsibilities not normally required in the employee's current position description. In this instance, the Fund did not document its rationale for promoting the employee in question, nor did it identify those extra duties and responsibilities that the employee had performed in addition to his normal duties and responsibilities.

Federal personnel law states, that an agency shall place each position under its jurisdiction in its appropriate class and grade in conformance with standards published by the Office of Personnel Management (OPM). When facts warrant, the agency may change a position to another class or grade.³ According to personnel regulations, an agency may promote an employee, at its discretion and without using a competitive action, when an employee performs additional duties and responsibilities beyond those identified in his or her current position and a classification to a higher grade.⁴ This process is commonly referred to as an accretion of duties.

Because of the problems we found with contract administration by the Fund's COTRs on the IT contracts, we sought to review their position descriptions to ensure that their COTR responsibilities and job expectations were properly and appropriately documented. One of the three COTRs, who was a contract specialist, did not have a position description in either

³ 5 USC § 5107.

⁴ 5 CFR § 335.103(c)(3)(ii).

the Fund's physical personnel files or in HRConnect, Treasury's human resource (HR) information system which is managed by ARC.⁵ The Fund uses ARC as well as Treasury Departmental Offices human resources employees to process personnel actions.

Our interviews of Fund, Departmental Offices, and ARC employees and our review of other personnel documents revealed a lack of accountability and responsibility for the promotion process in this instance. Files maintained by the Fund lacked documentation for (1) the position description for the contract specialist and (2) justification for his promotion from GS-13 to GS-14 through the accretion of duties process. The immediate supervisor who promoted the employee in July 2006 stated he was told that the employee's position was at the GS-13/14 level. He said that he was unaware that the employee was not in a GS-13/14 position description until our audit and was surprised to find out there was no position description for the employee at the GS-14 level.

According to a personnel specialist with Departmental Offices, the immediate supervisor provided a partially signed transmittal letter for the accretion of duties promotion without the supporting position description documentation to justify or measure how the employee exceeded his current responsibilities. Separately, the ARC human resources specialist we interviewed was not sure why ARC had accepted the document without the necessary Fund justification for the promotion and stated that the practice was inconsistent with the normal process. She informed us that the ARC could not locate the GS-14 position description that included the narrative duties for the class and grade in either HRConnect or paper master files.

The purpose of a position description is to identify and formalize employee duties and responsibilities. It also provides a basis for

⁵ In addition to contracting support services, ARC provides human resources functions such as HR support personnel actions processing and recordkeeping, pay and leave administration, staff acquisition and position classification, labor and employee relations, employee benefits and awards, workers' compensation, and personnel security to Treasury and non-Treasury bureaus and offices.

managing personnel actions such as recruitment, placement, compensation, training, reassignment, and promotion. Each agency is responsible for managing positions, people, and processes. Without official position descriptions, accountability is weakened and any promotion or other personnel action may appear inappropriate and unjustified.

Recommendations

We recommend that the Fund Director do the following:

1. Implement appropriate management controls to ensure that non-competitive promotions are properly documented, justified, and approved.
2. Ensure that all Fund employees have valid position descriptions in their official personnel files.

Management Response

The Fund conducted an extensive evaluation of all position descriptions to ensure that this was an isolated incident. All Fund employees have position descriptions in their official personnel folder. The Fund now posts all non-career ladder promotions through Treasury Career Connector system to enable employees to apply internally.

OIG Comment

Management's corrective action is responsive to the intent of our recommendations.

* * * * *

We appreciate the courtesies and cooperation extended to our staff during this audit. The major contributors to this report are listed in appendix 3. If you have any questions, please contact me at (202) 927-5400.

/s/

Kieu T. Rubb

Director, Manufacturing and Procurement Audits

The objective of our audit was to determine whether the Community Development Financial Institutions Fund's contract actions and contracting practices for information technology development and support comply with the Federal Acquisition Regulation (FAR) and the Department of the Treasury Acquisition Regulation (DTAR). During our audit we also noted deficiencies related to personnel management, and we expanded our review to cover those practices.

To accomplish these objectives, we visited the General Services Administration office in Kansas City, Missouri, and the Federal Aviation Administration office in Washington, DC. We reviewed four major contracts held by the Fund—the three most recent General Dynamics contracts with a total value of \$23.5 million and covering the period from May 17, 1999, to September, 18, 2010, and the Kearny & Company contract valued at \$3.7 million covering the period from January 1, 2003, to April 4, 2010. We also reviewed related laws, FAR, DTAR, and applicable procurement and personnel policies and procedures. Furthermore, we interviewed Fund, Departmental Offices, and Bureau of the Public Debt's Administrative Resource Center employees.

We conducted our fieldwork primarily from February to November 2008 and performed additional fieldwork in April 2009. We conducted this performance 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.

Appendix 2
Management Response



DEPARTMENT OF THE TREASURY
COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND
601 THIRTEENTH STREET, NW, SUITE 200 SOUTH
WASHINGTON, DC 20005

AUG 31 2009

MEMORANDUM FOR KIEU T. RUBB
AUDIT DIRECTOR
OFFICE OF INSPECTOR GENERAL

FROM: Donna Garabrell
Director

SUBJECT: Community Development Financial Institutions Fund Response to OIG Report:
CDFI Fund Contract Administration and Personnel Practices Need Improvement

Thank you for the opportunity to review and comment on the draft report, on improvements needed for Community Development Financial Institutions (CDFI) Fund contract administration and personnel practices. As you know, this audit was conducted at my request soon after my arrival to the CDFI Fund. Your report will assist the CDFI Fund as we continue to build upon existing contract and personnel policies and procedures.

In anticipation of, and as a result of your findings, the CDFI Fund has revised policies and procedures to ensure that all CDFI Fund non-competitive promotions are appropriately managed, all CDFI Fund employees are on valid position descriptions, and proper documentation for all contracts are maintained within the CDFI Fund.

Attached is further detail in response to your recommendations. If you have questions, your staff may contact Jose Villar, Chief Operating Officer, at 202-622-4932.

Appendix 2 Management Response

Key Contract Administration and Decision Documentation

Recommendation 1: Reconstruct and maintain, going forward, the contract administration file for the General Dynamics contracts with all required and pertinent documentation.

Corrective Action: A contract administration file has been established to maintain the pertinent General Dynamics documentation as of May 2009. The COTR will retain two working files (hard and soft copies) in accordance with FAR 4.801. Below is a detailed list of documents that will be retained in the file:

- a. Inter-Agency Agreement (IAA) from GSA dated September 17, 2008.
- b. Original Statement of Work (SOW) dated September 19, 2005 which has been maintained as the standard operating document.
- c. A copy of the contract and all modifications including originals provide by GSA.
- d. COR Designation Letter to CDFI Fund COTR dated June 29, 2009
- e. Letter of Determination to exercise option year three dated September 8, 2008 and the final option year letter will be retained once received from GSA.
- f. All Invoices and IPACS
- g. Project Schedules and Weekly Activity Report which include detail status of all projects.
- h. Quality assurance and surveillance reports that are generated through System Change Request to validate the services provided to the program offices.

Recommendation 2: Ensure that Fund COTRs adequately monitor contract performance, support contracting officers, and maintain contract administration files that document actions taken to fulfill contract administration responsibilities.

Corrective Action: Processes and procedures have been implemented as of March 2009 to adequately monitor General Dynamic (GD) performance. Several financial and performance validations occur by the COTR and Senior Resource Manager that include the following:

- a. All invoices are validated by the Senior Resource Manager for financial approval and by COTR for performance as well as hours dedicated per project.
- b. Weekly meetings are held with the IT Supervisor, COTR, and GD Manager to provide documentation on the current status and priorities. All documentation is filed once reviewed.

Appendix 2 Management Response

- c. Daily stand-ups are held with the COTR and GD Manager confirms daily work plan.
- d. The COTRs will continue to enhance their skill levels by attending training courses during fiscal year 2010.

Recommendation 3: Develop and implement standard operating procedures that specify required policies and procedures for contract administration and related files, including appropriate managerial controls to comply with FAR 4.803(b).

Corrective Action: The COTR is working with the Contract Specialist to develop the standard operating procedures for contract administration and related files, including appropriate managerial controls to comply with FAR 4.803(b) by March 2010.

Recommendation 4: Ensure that decisions to use interagency agreements are supported by the appropriate determination and finding in accordance with FAR 17.503 to demonstrate that using non-Treasury sources for the contract officer functions is in the best interest of the government.

Corrective Action: In June 2009, the Chief Operating Officer communicated with all Treasury Procurement Offices to validate that at this time the use of a non-Treasury source would be in the best interest of the government. Fiscal year 2010 is the last option year on the current GSA contract. A Statement of Work is being developed to capture the current requirements of the Fund for which a Treasury source will be used to solicit the RFP during the timeframe of February – March 2010.

Personnel Management Practices

Recommendation 1: Implement appropriate management controls to ensure that non-competitive promotions are properly documented, justified, and approved.

Corrective Action: The CDFI Fund agrees with the recommendations of the Office of the Inspector General (OIG). Unfortunately this FY 2006 personnel action was taken prior to the current Director's tenure with the CDFI Fund. Once the CDFI Fund was notified of this particular situation, management conducted an extensive evaluation of all position descriptions to ensure that this was an isolated incident. Management has also reviewed its non-competitive promotion procedures for employees not on career ladders. The CDFI Fund now posts all non-career ladder promotions through Treasury's Career Connector system, which enables employees to apply internally. This will help ensure that all documentation is on file and that employees are truly qualified for the promotion.

Recommendation 2: Ensure that all Fund employees have valid position descriptions in their official personnel files.

Corrective Action: All current employees have position descriptions on file in Treasury's HR Connect database.

Appendix 3
Major Contributors to This Report

Kieu T. Rubb, Director, Manufacturing and Procurement Audits
Cynthia S. Milanez, Audit Manager
Chereeka Straker, Auditor-In-Charge
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The Department of the Treasury

Deputy Secretary
Director, Community Development Financial Institutions
Office of Strategic Planning and Evaluations
Office of Accounting and Internal Control

Office of Management and Budget

OIG Budget Examiner