



Office of Inspector General

REVIEW OF FLRA'S CONTRACT FILE
MANAGEMENT SYSTEM

REVIEW OF FLRA'S CONTRACT FILE MANAGEMENT SYSTEM

Report No. MAR-23-06
September 2023

Federal Labor Relations Authority
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Table of Contents

Results in Brief	1
Background	1
Results in Detail	1
Conclusion	3
Recommendations	3
Management Comments	3
OIG Response	3

Appendices

Appendix 1: Objectives, Scope, and Methodology	4
Appendix 2: FLRA Contract Listing as of December 2022	5
Appendix 3: Management Comments	6
Appendix 4: Report Distribution	9

Acronyms

ASD	Administrative Services Division (includes contracting)
FAR	Federal Acquisition Regulation
FLRA	Federal Labor Relations Authority
OIG	Office of Inspector General

Susan Tsui Grundmann, Chairman

This report presents the results of the Federal Labor Relations Authority (FLRA), Office of Inspector General's (OIG) review of the FLRA's contract file management system. Our work was limited to reviewing, as of June 1, 2023, the status of FLRA's contract file management system and related policies and procedures.

Results in Brief

We determined that FLRA failed to develop and maintain policy and procedures regarding contract file management. As a result, we determined that FLRA did not maintain contract files in accordance with the Federal Acquisition Regulation (FAR). We made two recommendations and will perform a follow-up review in Fiscal Year 2024.

Background

Good contract files are essential to a robust acquisition program. FAR 4.8 requires contracting officers to maintain contract files. Contract files are vital in protecting the agency and the taxpayers' interest. Good contract files protect the agency and taxpayer in the event of a dispute, an adverse action against the contractor, or a claim against the Government. The contract file is the support for all decisions made by the contracting officer. It demonstrates that the contracting officer has made decisions that are in the best interest of the agency and taxpayer.

FAR 4.8 requires contracting officers to establish and maintain contract files. It states in subsection (a) "The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions." Subsection (b) states that a contract file "shall be sufficient to constitute a complete history" of the actions under the contract. The contract files should simply tell the story of the acquisition including planning, negotiation, award, administration, and close-out. It serves as a record to the taxpayer and oversight authorities that decisions were legal, well-informed, and in the best interest of the agency and taxpayer.

Results in Detail

We determined that FLRA failed to develop and maintain policy and procedures regarding contract file management in accordance with the FAR. We interviewed the Administrative Services Division (ASD) Director and FLRA's contracting officer. The ASD Director began working with FLRA in mid-2021 and the contracting officer began working with FLRA in mid-2022. The contracting officer position was a newly created position within FLRA. Both stated that prior to their arrival at FLRA, that FLRA had no formal contract file management policy in place or official contract files either in analog or digital format. The ASD Director and contracting officer stated that they began to assemble pertinent contract file documents for existing contracts on an as needed basis from prior files preserved on prior employee computers and emails and other sources.

At our request, ASD provided a listing of FLRA’s contracts as of December 2022 (Appendix 2). These 19 contracts had a combine value of \$9.521 million. The OIG requested four contract files to review in detail. Our review determined that key documentation was missing from each of the contract files. It is our opinion that none of the files were complete or were FAR-compliant. None of the files were able to independently tell the complete story of the procurement. We acknowledge that missing documents do not indicate whether the procurement was done in accordance with FAR, simply that the documents were not included in the files we were provided. The table below shows examples of key documents missing from each of the files.

Contract File	Examples of Documents Missing*
Sample #	
KRJ Consulting	Set-Aside Justification; Proposal
Kyocera	Synopsis of Procurement, Proposals from winning and losing bidders
Quickbase	Sole-source Justification
Three Wire	Evidence of Competition, Source selection

*Not an exhaustive list, just examples of missing pertinent documents.

Complete contract files also make it possible for oversight of the procurement. The Congress and taxpayer have the right to know that tax dollars are spent legally and appropriately. Without contract files, oversight is not possible. For example, on two separate occasions that were unrelated to this review, documents that should have been in FLRA’s contract files were not available. These documents had to be requested from the contractor on both occasions. It is difficult to conduct oversight on procurements if pertinent contract documentation is not maintained by FLRA.

The ASD Director and contracting officer stated that they were in the process of creating a SharePoint based electronic contract file management system. We requested FLRA’s contract file management system policy and procedures. They stated that policies and procedures were being drafted up as part of the process and they would forward a draft copy of FLRA’s policy when complete. On May 1, 2023, the contracting officer forwarded a copy of FLRA’s draft contract file management policy to the OIG. FLRA noted that the policy is draft only and not a final version.

We reviewed FLRA’s draft policy regarding contract file management and determined that it generally should result in a FAR compliant contract file management system. However, we believe there are a few items to improve the contract file as it relates to correspondence and contract close-out.

Correspondence. It is important for oversight purposes and continuity of operations that all relevant correspondence is put into the official contract file but also that it is organized in chronological order. As FAR states, the contract file is to tell the story and especially for larger procurements, the correspondence must read in chronological order to understand the story. This could be accomplished through an established file naming convention for correspondence that would automatically sort the correspondence in chronological order. For example, each correspondence file that started with the YYYY_MM_DD format with additional information describing the file contents. Such an approach would ensure a chronological order of pertinent correspondence similar to older analog files contained correspondence placed in folders or binders in chronological.

Contract Close-Out. It is important for management purposes to segregate those contract files that have been closed out. This will ensure proper close-out is performed for each contract. Segregating contract files after close-out will also ensure proper retention of contract files per FAR and National Archives and Records Administration requirements.

Conclusion

FLRA has failed to maintain a FAR-compliant contract file management system. However, FLRA management has acknowledged this fact and have drafted up policies and procedures to ensure future contract files comply with FAR requirements. We believe the draft policies and procedures along with our comments will result in adequate and FAR-compliant contract files. This will ensure FLRA's and the taxpayer's resources and interests are protected.

Recommendations.

The Director of ASD:

1. Finalize the draft contract file management policy.
2. Incorporate the recommended changes into the final policy
 - a. Correspondence Files.
 - b. Contract close-out process.

Management Comments

On August 18, 2023, the Director, ASD concurred with our finding. The Director also plans to finalize the draft policies and procedures per our recommendation. FLRA also provided clarifications to statements in our report and some comments regarding factual statements. FLRA's response is in Appendix 3. Below is the OIG's response to FLRA's comments.

OIG Response

FLRA concurred with our findings and recommendation. The Director, ASD also provided numerous comments regarding our report. Based on FLRA's comments we made the following adjustments:

1. Added a statement in the scope section to our report clarifying that our scope and findings were limited to whether FLRA had a formal contract file management system.
2. Footnoted the table in Appendix 2 that the KAPAX current estimated value is \$860,285 as not all options have been exercised by the Government.
3. Combined Three Wire individual orders to one line/contract as they are placed against a single BPA awarded to Three Wire and added the estimated value of the entire BPA.

FLRA made other less substantive comments which are included in their entirety in Appendix 3. It is worth noting that policies and procedures are the accepted method for ensuring compliance with laws and regulations. It is not necessary for laws and regulations to mention or require policies and procedures, but policies and procedures is evidence of management's commitment to ensure applicable laws and regulations are incorporated into and followed in the day-to-day operations of an agency or any organization.

We consider FLRA's response adequate and we plan to conduct a follow up to ensure FLRA finalizes the draft policies and procedures for contract files.

Appendix 1: Objectives, Scope, and Methodology

The objectives of this review were to determine whether: 1) FLRA's policies for maintaining contract files were compliant with the FAR; and, 2) if FLRA maintained a contract file management system in compliance with its policies. Our fieldwork was conducted September 7, 2022, through June 1, 2023, with information provided through FLRA's offices in Washington, DC.

We interviewed and had discussions with the ASD Director and FLRA's contracting officer. FLRA's contracting officer reports to the ASD Director. We received and reviewed contract documentation and FLRA policy related to contract file management. We requested the complete contract files for four FLRA contracts to review in detail.

All the requested information that was provided, together with management comments were reviewed and evaluated to come to our findings, conclusions, and recommendations. We documented all the review activity and drafted a report for FLRA management review. An advanced copy of the draft report was provided to management for their review and comments.

The scope of our review was limited to determining if policies and procedures existed to establish a FAR-compliant contract file management system. Our findings and conclusions do not address whether the individual procurements were done in accordance with FAR and other laws and regulations. Also, documents that were missing from the files provided to the OIG during our review do not indicate whether the procurement was done inappropriately.

Appendix 2: FLRA Contract Listing as of December 2022

#	Contract Number	Contractor	Description	Awarded Period of Performance	Options Remaining	Estimated Contract Value*
1	54310322A00003	Three Wire	BPA for IT Maint., Security, and Support	03/16/2022 - 03/15/2023	3	5,000,000
2	54310321C00001	KPAX†	ASD Contractor Support Services	09/21/2021 - 09/20/2023	3	1,720,570
3	54310321A00001	Dembo Jones	Audit Services	12/01/2020 - 11/30/2023	2	1,006,660
4	54310322F00006	KRJ Consulting	SME Consulting	03/14/2022 - 03/13/2023	2	420,192
5	54310322A00004	Free State	Court Reporting	03/31/2022 - 03/20/2023	4	400,000
6	54310322A00005	CC Complete	Electronic Election Balloting	09/27/2022 - 09/26/2023	4	400,000
7	54310322P00008	New Tech	Microsoft Enterprise Agreement	10/01/2022 - 09/30/2023	0	272,005
8	54310322C00001	DC Net	Internet Services	10/01/2022 - 03/30/2023	0	88,560
9	54310322P00017	Quickbase	Case Manage Software Subscription	09/27/2022 - 09/26/2023	0	58,288
10	54310322F00007	Three Wire	Monthly Hosting Maintenance for eFiling	03/25/2022 - 03/24/2023	0	33,511
11	54310322P00018	Presidio	CISCO SmartNet License and Subscription	09/28/2022 - 09/27/2023	0	27,027
12	54310322F00022	Kyocera	MFD Devices	09/28/2022 - 09/27/2023	2	23,524
13	54310322F00021	Pitney Bowes	Mail Machines	09/28/2022 - 09/27/2023	3	23,125
14	54310322P00014	Leadership Connect	Congressional Yellowbook	08/17/2022 - 08/16/2023	1	19,950
15	54310323P00002	Cogent	Internet Services Oakland	10/01/2022 - 09/30/2023	0	9,468
16	54310322P00016	Stonefly	Veeam Backup Microsoft Office 365	09/08/2022 - 09/07/2023	0	4,932
17	54310323P00001	Cogent	Internet Services Atlanta	10/01/2022 - 09/30/2023	0	4,800
18	54310323P00003	FedEx	Shipping Services	10/01/2022 - 09/30/2023	0	4,800
19	54310323P00004	Brookfield	Building and Property Services for HQ	10/01/2022 - 09/30/2023	0	4,500
TOTAL						9,521,912

*Estimated Contract Value at Award if all option periods are exercised.

†Not all options have been exercised and the current estimated value of the KAPAX contract is \$860,285.

Appendix 3: Management Comments



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
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www.FLRA.gov

August 18, 2023

Memorandum To: Dana Rooney, Inspector General
Office of Inspector General

Through: Michael Jeffries, Director
Office of the Executive Director

From: L. Pershette Wakefield, Director
Administrative Services Division

Subject: Contract File Management System Review Comments

Thank you for the opportunity to review, clarify and provide comment to the draft Contract File Management System Review Report. As we are in the process of strengthening our contracting system, we appreciate the comments in the Report. We concur with the finding the Administrative Services Division does not have a written policy and procedure document for the contract file management system. As provided, the Agency does have a draft policy and anticipates a final policy in the coming months. It is also worth noting, FAR 4.8 does not mention a written policy and procedure document but rather describes the contents of the files with flexibilities. We want, however, to clarify a few items in the Report because we do not believe that they accurately reflect the FLRA's compliance with the FAR concerning contracts.

As you know, over 70% of contracts that are listed in Appendix 2 of the Report fall under the FAR's Simplified Acquisition Process (SAP). The SAP was intended to streamline the acquisition process for acquiring goods and service at or below the \$250,000 level—so that less cost (and paperwork) would be borne by the government and its contractors. SAP procedures are so heavily favored that FAR 13.003(a) directs that "Agencies shall use simplified acquisition procedures to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold (including purchases at or below the micro-purchase threshold). . . ." While the FLRA is working on strengthening its contract filing system, we believe that its SAP files do comply with FAR requirements, particularly since the FAR anticipates the need for flexibility and efficiency. *See* FAR 4.803 ("The following are examples of the records normally contained, if applicable, in contract files").

We also believe that the statement that "the contracting officer is a newly created position within the FLRA" on page 1 of the Report needs some context. The statement is correct to the extent that the FLRA was without a single designated agency contracting officer August 2021- May

2022. The FLRA, however, used alternative contracting resources during that time. Although the FLRA wanted to enter into an IAA for contracting services with larger agencies such as the Department of Treasury or Department of Interior, the FLRA did not have the budgetary resources to do so. Instead, the ASD Director coordinated support from other agencies to continue mission requirements. The FLRA is doing everything that it can to avoid this situation in the future.

Finally, we believe that some of the factual statements in the document need to be adjusted.

- 1) We ask that the way that the report describes two of the contracts in Appendix 2 be changed to more accurately reflect the nature of those contracts. First, it is true that the Three Wire contract is a BPA that had two call orders in FY23. However, we believe that if two of the call orders are listed, the remaining BPA call orders items should be listed and we can provide you with a full list. Second, the description for the KAPAX contract should be adjusted. Under that contract, the ASD and CIP components of the FLRA had the option to use KAPAX services. If both FLRA components had used KAPAX's services, the cost would have been the \$1,720,570 that is listed in Appendix 2. Only ASD, however, exercised its option. To date, ASD's exercise of options cost only \$342,584.16. If ASD exercises its three remaining option periods, the value of the contract will be \$860,285.04. We therefore ask either that the description of the contract be changed to "Contractor Support Services" or the Estimated Contract Value be changed to \$860,285.04.
- 2) We believe that it is important to provide additional clarification concerning the four examples of files with missing documents listed on page 2 of the Report.

The KRJ Consulting contract was made under FAR 19.8. As you know, if an award is going to be made under FAR 19.5 or 19.8, set-aside documentation is not required. Moreover, FAR 19.203 states there is no order of precedence when selecting a socio-economic category for set-asides. Since the HR consulting requirement was previously awarded under SBA's 8(a) program, the requirement must remain in the 8(a) program (*see* FAR 19.815(a)). We have attached a copy of the 8(a) offer letter and SBA approval, and other documentation in the file.

The Kyocera contract had an estimated contract value of \$23,5254. It therefore not only fell under the FAR's SAP guidelines, but also under regulations governing contracts that fall under \$25K. Requirements for award of those contracts are the most streamlined and the documentation that the FLRA kept with respect to the contracts is consistent with those regulations. *See* FAR 5.1 and 5.2.

Although the Quickbase contract was above the \$25K threshold described above, the contract is still an SAP. Moreover, the contract file contains a letter from the vendor identifying it as the sole-source supplier. This establishes the justification for the sole-source award.

The Three Wire BPA was awarded using FAR 8.405-6(a)(1)(C). That regulation

allows agencies to go to the same vendor in the interest of economy and efficiency. This is why there is no evidence of competition in the file. We attach a copy of the justification that we wrote concerning this award.

Although we believe that the FLRA's prior efforts and file management system comported with the FAR, the FLRA is taking steps to strengthen that system. The FLRA is committed to maintaining a safe, strong, and transparent contract acquisition system. Adoption of a Contract File Management Policy will be one of its first steps.

We would like to thank the OIG for this review and for its continued collaboration in support of FLRA programs.

Appendix 4 : Report Distribution

Federal Labor Relations Authority

The Honorable, Colleen Duffy Kiko, Member

Michael Jeffries, Executive Director

Pershette Wakefield, Director, Administrative Services Division

Contacting the Office of Inspector General

IF YOU BELIEVE AN ACTIVITY IS WASTEFUL,
FRAUDULENT, OR ABUSIVE OF FEDERAL FUNDS,
CONTACT THE:

HOTLINE (877) 740-8278
[HTTP://WWW.FLRA.GOV/OIG-HOTLINE](http://www.flra.gov/oig-hotline)

EMAIL: OIGMAIL@FLRA.GOV
CALL: (771) 444-5712 FAX: (202) 208-4535
WRITE: 1400 K Street, N.W. Suite 250, Washington,
D.C. 20424

The complainant may remain confidential; allow their name to be used; or anonymous. If the complainant chooses to remain anonymous, FLRA OIG cannot obtain additional information on the allegation, and also cannot inform the complainant as to what action FLRA OIG has taken on the complaint. Confidential status allows further communication between FLRA OIG and the complainant after the original complaint is received. The identity of complainants is protected under the provisions of the Whistleblower Protection Act of 1989 and the Inspector General Act of 1978. To learn more about the FLRA OIG, visit our website at <http://www.flra.gov/oig>



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