Report in Brief
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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

FDA Should Improve Its Management of Contracts for the Acquisition of Information Technology

Why OIG Did This Audit

HHS relies extensively on contractors to fulfill its mission, and OIG has identified ensuring the financial integrity of HHS programs, including HHS's oversight of contracts, as a top management challenge for HHS. This audit is part of a broad portfolio of HHS OIG audits examining various aspects of HHS contracting operations. Our focus was on the Food and Drug Administration's (FDA's) contract administration of large dollar information technology (IT) contracts with multiple task or delivery orders. FDA relies on contractors to facilitate the purchase and maintenance of IT products.

Our objective was to determine whether FDA administered contracts for the acquisition of IT in accordance with applicable Federal acquisition regulations and HHS acquisition regulations and policies.

How OIG Did This Audit

We reviewed five FDA orders totaling $23.6 million paid to a contractor during fiscal years 2018 through 2020 for IT hardware and equipment. We examined acquisition planning documents, award documents, contract files and records, invoices, and supporting contract file documentation; reviewed FDA policies and procedures related to acquisitions, procurement, and supply management; and conducted virtual interviews with FDA on its governance, contracting processes, practices, controls, and management support activities.

What OIG Found

FDA contracting officers generally administered the delivery and call orders we reviewed for the acquisition of IT in accordance with Federal regulations and policies. However, we identified areas within FDA's management of these orders that were not conducted consistent with applicable Federal acquisition regulations and HHS acquisition regulations and policies. Specifically, the contracting officers did not: (1) properly designate a contracting officer's representative (COR), or did not complete all required duties for contracts for which there was no designated COR; (2) complete required contractor performance evaluations; (3) properly document all key contracting decisions or activities and obtain all required signatures on key documents; and (4) include the required acquisition strategy statement in the orders' acquisition plans. Additionally, FDA did not fully comply with the HHS Competition Advocacy Directive for fiscal years 2018 and 2019.

These conditions occurred because FDA did not always: (1) follow existing FDA acquisition and procurement policies and procedures, including ensuring the completeness of contract documents, and (2) work with HHS to meet its obligation to comply with an HHS directive.

What OIG Recommends and FDA Comments

We made procedural and administrative recommendations to improve compliance with Federal acquisition requirements related to COR duties, contractor performance assessments, documentation of contracting decisions and activities, and acquisition strategies. The full recommendations are in the report.

In written comments on our draft report, FDA concurred with all of our recommendations and described actions it has taken or plans to take to address the findings. FDA stated that it has increased its reviews and audits of the acquisition files to ensure that all applicable contract documentation is properly prepared and uploaded. FDA stated that it has updated its policies and procedures to ensure that all contracting decisions made by the contracting officer will be documented and that the documentation will include the rationale for any business judgments. FDA stated that it will assess the acquisition lifecycle process to ensure that all acquisition activities align with current policies and procedures and established best practices. FDA stated that it will continue to work with HHS to ensure FDA complies with the Competition Advocacy Directive.

The full report can be found at https://oig.hhs.gov/oas/reports/region18/182111100.asp.