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FOIA Office

August 13, 2015

RE: 15-00141-FOIA
A copy of the following CFTC Office
of Inspector General Review: the
Review of Agency Use of Contractors.

This is in response to your request dated May 4, 2015 under the Freedom of Information Act seeking access to a copy of the CFTC Office of Inspector General Review: the Review of Agency Use of Contractors. In accordance with the FOIA and agency policy, we have searched our records, as of May 4, 2015, the date we received your request in our FOIA office.

We have located 17 pages of responsive records. You are granted full access to the responsive records, which are enclosed.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 8th Floor, 1155 21st Street, N.W., Washington, D.C. 20581, within 30 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Linda J. Mauldin at 202-418-5497.

Sincerely,

Joan B. Fina
Assistant General Counsel

MEMORANDUM

TO: Walter L. Lukken
             Acting Chairman

FROM: A. Roy Lavik
             Inspector General

DATE: August 1, 2008 (revised July 2011)[1]

SUBJECT: Review of Agency Use of Contractors

Review 08-01

EXECUTIVE SUMMARY

This report presents the first review of the use of contract employees by the Agency. The objective of this review was to provide the Chairman with a complete picture of the Commission's use of contractors and to determine whether the Agency has effectively employed contractors to replace and complement its staff. More specifically, we sought to ensure that the Agency was not employing contractors to perform inherently governmental functions and, for the two largest contracts, was not employing contractors to perform work that could be performed by agency employees at lesser cost.

We examined summary information on 65 of the Agency's existing contracts, and found nothing to indicate that contract employees were performing inherently governmental tasks. We chose to examine in detail the two largest Agency contracts resulting in the greatest influx of contract employees to ensure that these tasks could not be performed by Agency employees at lesser cost. Both contracts provided information technology (IT) services to the Agency.

In the two contracts that we examined in detail, we found the Agency effectively supplemented its full-time staff with contractors. The Agency was able to acquire skilled software development talent that reduced development time for several major computer

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[1] We made two revisions in July 2011. First, we removed the following sentence: "We conducted this audit in accordance with generally accepted government auditing standards." Second, we removed the word "audit" throughout. The word "review" remains unaltered in the report's title and throughout the report. These revisions respond to a peer review of the CFTC OIG audit function completed in March 2011. The peer review concluded that this report did not conform to GAGAS. We intended this project to function as a review, as evidenced through the use of the word "review" in the title and throughout the report, and regret the sole reference to GAGAS, as well as the use of the word "audit" within the original report, both of which were included in error. We regret the errors.

surveillance systems for the futures and options markets. In another contract, we found that the Agency has improved its delivery of help-desk services to Agency employees. For tasks of a temporary nature, and during periods of limited funding, skilled contract IT employees provided temporary benefit to the Agency for achieving goals established by management and Congress. Moreover, the contracts reviewed were competitively awarded, in theory permitting the Agency to acquire services at market price resulting in best value to the government.[2]

Nonetheless, we offer recommendations targeted to the computer help-desk operations. They focus on improving the selection of contractors; greater monitoring and use of the help-desk logs to identify opportunities for delivering specific assistance to Agency employees; and urge the use of former help-desk talent to address CFTC specific fixes to existing software problems that can increase the efficiency of CFTC employees.

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[2] We did not review compliance with the Federal Acquisition Regulation as it would apply to the contract award process.

BACKGROUND

Over the past five fiscal years the Agency has increased its reliance on contractors to replace some CFTC employees and to extend the capabilities of others. During Fiscal Year 2002, CFTC spent $6.9 million dollars on contractor services. By Fiscal Year 2007, spending on contracted services reached $11.1 million dollars. Over that same period, the number of contractor staff years employed more than quadrupled from 17 to 75.[3] Agency employees noticed the increased use of contractors and informally expressed concern to the Inspector General. The overriding concern was that the expanding use of contract employees wasted Agency funds.

OBJECTIVES, SCOPE AND METHODOLOGY

Our general review objective was to determine whether the Agency has effectively employed contractors to replace and complement its staff and to present the Chairman with a complete picture of the CFTC's use of contractors.

The review period was FY 2002 through FY2007.[4] The Office of the Inspector General (OIG) conducted a summary review of 65 contracts for services entered into by the Agency as provided by the Office of Financial Management for FY 2002 to FY 2007. From this summary review, we determined that the Agency has not employed contractors to perform inherently governmental services.

As a result of this initial review the OIG selected two major contractors – Northrop Grumman Information Technology, Inc. (NG) and Digicon Corporation (Digicon) – for additional review. Both contracts were for services formerly supplied by the Office of Information and Technology Services (OITS) at the Agency and both had grown the most during this review period and resulted in the greatest influx of contract employees. We believed it advisable to take a closer look.

With respect to the contracts chosen for detailed review, our specific objectives were to present the Chairman with a history and comprehensive picture of the CFTC's use of contractors for IT services related to these two contracts, and to ascertain whether the services obtained through these contracts could be obtained in equal measure through CFTC full time employees and, if so, whether the use of contractors in place of full time employees was cost-effective.[5]

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[3] The number of FTEs (full-time equivalent) at the CFTC has declined since fiscal year 2002. In fiscal year 2002 the CFTC had on board 509 FTEs vs. fiscal year 2007 FTEs 437. Source: CFTC Fiscal Year 2007 Performance and Accountability Report page 4.

[4] During this review period the President signed Homeland Security Presidential Directive (HSPD) 12-Policy for a Common Identification Standard for Federal Employees and Contractors on August 27, 2004. OMB on August 5, 2005 issued Memorandum M-05-24 formalizing HSPD12. This review did not examine contractors' compliance with HSPD12 and OMB memorandum M-05-24.

[5] We did not perform detailed analysis of the other 63 contracts to ascertain whether the same commercial tasks could have been performed at less cost by full time employees.

OIG acquired an understanding of the services provided by the NG and Digicon contracts by reviewing all relevant CFTC contracts with these two vendors. OIG interviewed the Executive Director, the Chief Information Officer (CIO), Contracting Officers, and Contracting Officer's Technical Representatives (COTRs).

With regard to the Digicon contract, OIG additionally interviewed end users and CFTC full time employees (FTE, career) who previously held jobs now performed by contractors. In addition, OIG interviewed the Regional Directors for their views regarding tasks formerly performed by FTEs and now performed by contractors. OIG completed 36 interviews during this review in order to obtain a more complete understanding of the NG and Digicon contracts.

LEGAL BACKGROUND

The decision whether to employ contractors or full time permanent employees is influenced by the Federal Acquisition Regulation (FAR),[6] OMB Circular A-76,[7] and the Federal Activities Inventory Reform Act (FAIR).[8] These three authorities indicate a current bias in favor of using contractors to perform commercial tasks when it is permissible and cost-effective to do so.

OMB Circular A-76 advises, among other things, that agencies shall identify and label all Agency activities as "commercial" or "inherently governmental"[9] and make these classifications available to OMB and the public. The FAIR Act requires certain Federal agencies to prepare by June 30th of each year inventories of their commercial activities performed by Federal employees, and to make those inventories public.[10] OMB Circular A-76 states that agencies shall perform inherently governmental duties solely with federal personnel. The FAR states as a general principle that Agencies will maximize the use of commercial products and services (while minimizing administrative operating costs).[11] Like the FAR, OMB Circular A-76 advises that contractors should be used for commercial activities, when cost-effective.

The FAR, OMB Circular A-76 and the FAIR Act have informed our analysis of CFTC's use of contractors. These three authorities present a framework of analysis that is easy to follow.

- First: the Agency must determine whether a given task is "commercial" or "inherently governmental." If the task is inherently governmental, the inquiry ends and federal employees are used. If the task is commercial, then the Agency moves to the next step.

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[6] See General Services Administration, *Federal Acquisition Regulations*, and Available at http://www.arnet.gov/far/.
[7] Available at http://www.whitehouse.gov/omb/circulars/a076/a76_incl_tech_correction.pdf
[8] Federal Activities Inventory Reform Act (FAIR), Oct. 19, 1998, Pub. L. No. 105-270, 112 Stat. 2382.
[9] OMB Circular A-76, Attachment D, states: "An *inherently Governmental function* is a function which is so intimately related to the public interest as to mandate performance by Government personnel."
[10] Pub. L. No. 105-270, sec. 2, 112 Stat. 2382 (1998).
[11] See 48 C.F.R. § 1.102.

- Second: the Agency must determine whether workers who possess the appropriate skills can be obtained at CT pay levels. If the task requires unusual expertise such that qualified individuals cannot be obtained at CT pay levels, or if the work is potentially temporary in nature, it may be impossible or impracticable to find individuals willing to work for CT pay or on a temporary basis. If that is the case, it will be appropriate to hire contract employees.

- Third: if the task is commercial and workers are available for hire at CT pay levels, the Agency should conduct a cost benefit analysis and use contractors if it will save money.

FINDINGS

Summary Review of Agency Contracts

As stated, the OIG reviewed summary information obtained from the Office of Financial Management for 65 contracts. We reviewed the contract information to ensure that contractors were not performing inherently governmental tasks. Our review of the 65 contracts indicated that contractors are not performing inherently government tasks. As stated, based on our summary review we chose the NG and Digicon contracts for detailed review.

The Northrop Grumman Contract

The NG Contract provided for the development of major computer surveillance systems. All employees interviewed – including the Chief Information Officer, Contracting Officers, and the Contracting Officer's Technical Representative – stated that the NG contract provided for specialized services for which the Agency lacked the necessary human capital. All individuals consulted were strongly convinced that existing CFTC staff could not perform the tasks performed by NG, and that full time employees with the desired skills could not be obtained at CT pay levels. We found no evidence to contradict this statement.

We found that CFTC as recently as fifteen years ago developed its own solutions for computer surveillance of the financial markets. However, the explosive growth in trading volume influenced the Agency to prioritize modernization of existing computer surveillance systems. Nevertheless, two roadblocks to swift and efficient modernization stood in the way: 1) an existing shortage of CFTC employees with training and experience with newer client server based systems and specialized skills for developing novel computer applications, and 2) budgetary restrictions on hiring new full time employees. CFTC IT professionals revealed that the time and cost for training full time career employees would substantially delay the roll-out date for most of the time sensitive applications that the Agency needed to modernize its electronic surveillance of futures and options markets. In order to expedite the process, one solution was to engage temporary contract employees. The NG contract enabled the Agency to

acquire skilled software development talent that reduced development time for several major computer surveillance systems for the futures and options markets.

Because the NG contract by all accounts involved services that could not be provided by full time employees, the question whether it would be cost-effective to use contractors in place of FTEs was moot. We focused on the cost increases for this contract and questioned the Chief Information Officer, Contracting Officer, COTR, and other relevant actors. They convinced the OIG that the cost increases corresponded to increased need for services that were not included in the original contract. These additional services were reflected in the task orders[12] that we reviewed.

The Digicon Contract

The Digicon contract provided specialized computer professionals for the OITS help-desk. In contrast to the NG contract, where all evidence indicated full time employees could not be obtained to perform the same tasks, Digicon provided a service performed by full-time CFTC employees from 1989 until 2003, and through a hybrid staff of Agency and contract employees from 2003 to 2006. In September 2006 the help-desk converted to all contract employees. The OIG reviewed the Digicon contract to determine whether full time agency employees could still do the job and, if so, whether the use of contractors nevertheless saved money.[13]

In order to gain an understanding sufficient to address these issues, OIG obtained all measurable performance data currently used to evaluate results of the existing contract for help-desk services. In addition, we interviewed former Agency help-desk employees and learned:

o   A history of the help-desk;
o   The benefits and drawbacks to staffing the help-desk with all full time employees, with all contract employees, and with a combination of FTEs and contract employees;
o   Opinions regarding the cost of staffing the help-desk with full time employees compared with the cost for contractors;
o   Opinions regarding the best way to staff the help-desk today; and
o   Suggestions for improvement.

We interviewed the current Regional Coordinators and learned:

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[12] A task order contract is a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of contract. See Federal Acquisition Streamlining Act of 1994, Pub. L. No. 103-355 §1004 and §1054, 108 Stat. 3243 (1994).

[13] Because the help-desk tasks were performed by Agency employees for so long, initially the OIG sought to ascertain that the tasks performed under this contract were not inherently governmental. Interviews with help-desk users, COTRs, and former help-desk employees convinced us that help-desk employees provide timely general solutions to bugs or obstacles found in most desktop software applications used by Agency employees and addressed ongoing maintenance of existing electronic capital equipment. They do not perform inherently governmental functions.

o   Opinions regarding the introduction and use of contract employees on the help-desk;

o   Whether employees in the regions are voicing complaints about the help-desk; and

o   Opinions regarding the future of help-desk operations in the regions.

We interviewed help-desk users and learned

o   The types of services usually requested of the help-desk,

o   Opinions regarding the change in help-desk staff from full time employees to contract employees, and

o   Suggestions for improvements.

We interviewed the CIO and learned the Agency's strategy for supplying help-desk services. While the CIO recognized that knowledge of the CFTC's operations is beneficial to providing precise customer service, it was determined to be critical that the OITS help-desk staff remain current in the technology used by the Agency. Contractors provided the flexibility needed to address these operational requirements. Furthermore, the CIO believed that as the agency takes on younger employees who are more computer savvy and less in need of frequent help-desk assistance the demand for help-desk services may decrease. Consequently, we conclude that this can lead to a reduction in the staff size of the help-desk.

Interviews with former help-desk employees. We learned that the help-desk was formed in 1989 using all CFTC employees, and they received 20 to 30 calls a day. They performed mostly information technology related services such as desktop installations, network maintenance, software assistance and some equipment repair.[14] Staffed with a variety of skilled full time Agency employees, newer employees or interns could handle simpler tasks (such as replacing printer toner) while more experienced employees could handle more complex software and hardware issues.

The major benefits to using 100% Agency employees in the early days were readily available knowledgeable staff, limited desktop software applications, knowledge of CFTC personnel, structure and mission, and the fact that the employees could train each other and funnel complex tasks to more experienced employees and simpler tasks to newer employees. More than one former help-desk employee stated that they worked together as a team. The inherent drawbacks or problems were frequent turnover as help-desk employees transferred to other Agency jobs, and problems with the management structure. These problems developed over time and continued as contract employees joined the help-desk staff. Problems with management increased after the dismissal of one career manager and persisted with other temporary or transitional managers.

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[14] The help-desk currently services only commercial-off-the-shelf software (COTS) installed on Agency supplied electronic equipment. These commercial programs include word processors, electronic spreadsheets and web browsers.

The help-desk remained staffed by career Agency employees until approximately 2003. In 2003 OITS – then known as the Office of Information Resource Management (OIRM) – supplemented the help-desk staff with contract employees for the first time.[15] OIRM hired contract employees solely due to budget constraints: there was money for contract employees but not career employees. Contractors readily possessed knowledge of most desktop applications and new contractors could be easily added as OITS introduced new desktop applications on the CFTC network. Contractors therefore evolved from supplementing help-desk staff (FY 2003) to complementing help-desk staff (FY 2004 to FY 2005) and finally to replacing help-desk staff (FY 2006+).

As the Agency continued to explore various staffing solutions for the help-desk, a number of drawbacks to each emerged. The drawback to using a hybrid of Agency and contract employees was the disparities in pay and benefits which, when discovered, caused tension among contractor and career staff. Former CFTC help-desk employees characterized this period as unnecessarily competitive among contractors who were vying for Agency full time positions. Former help-desk employees indicated that, during the hybrid staffing period, some contractors lacked training in the unique CFTC modifications to industry software products and could not provide immediate fixes to Agency employees. Furthermore, under the hybrid system some former help-desk employees intimated that contractors were hesitant to ask full-time employees on the help-desk when they needed assistance, thus reducing the overall effectiveness of help-desk operations. Migration to 100% contract employees alleviated these tensions, but came with a drawback.

Former help-desk employees stated that a drawback to using 100% contract employees, at least with regard to newer contract employees, continues to be the lack of pre-existing knowledge of CFTC's modifications to off-the shelf software, and a continuing reluctance to request assistance from former help-desk staff now located in other sections of OITS. Former help-desk employees opined that contractors need to be fully trained in CFTC systems, and need to feel free to ask CFTC employees with expertise for assistance when necessary. Two former help-desk employees expressed that it may benefit the help-desk to have an Agency employee in a position to provide technical assistance, or to provide general oversight to the help-desk employees. This advice indicates to us that an FTE may provide continuity and knowledge of Agency IT operations to contractors. Finally, disparate skill levels were noted among newer contractor employees – an indication that better quality control over the hiring of contractors is needed.

Nevertheless, the former help-desk staff also felt there were clear overall benefits to staffing the help-desk with all contract employees. Former help-desk employees also

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[15] Help-desk employees told us that the Agency first hired contract employees in to assist with information technology tasks when the Agency began using Windows 95. Agency staff lacked sufficient expertise with the program necessary to implement it Agency-wide. This set a precedent of hiring contract employees to work on new IT systems.

opined that using 100% contract employees should foster greater teamwork than the hybrid contractor/Agency employee help-desk. While the major drawback to using contractors was the need to train them fully in CFTC configurations, the former help-desk employees who expressed an opinion agreed that, looking ahead, when CFTC adopts Windows VISTA[16] and other new applications, additional contract employees will be necessary to introduce and provide help-desk assistance to Agency employees. All agreed that going back to a help-desk staffed by full time Agency employees would not be advisable or easy.

With regard to the comparative costs of staffing the help-desk with Agency employees as opposed to contractors, none of the former help-desk employees were conversant, but those with an opinion believed that, in the long run, staffing the help-desk with contract employees should cost less. This opinion was based on the view that the help-desk would consistently need to be revitalized with new workers as new IT applications are introduced at CFTC.[17] The former help-desk employees agreed that, unlike the valuable experience long term CFTC employees offer with regard to futures industry issues and regulation, experience with obsolete IT systems often provides no value to the current OITS mission, and at times can be a drawback. Over the long haul, hiring new FTEs for each new IT application – especially IT applications which will be in use for a limited period – will waste money. The alternative – constantly retraining FTEs – could delay the introduction of new IT applications, and may not be possible.

When asked about recreating an all FTE help-desk and possibly returning to their former jobs, the former help-desk employees all indicated that they are satisfied with their current positions and would not wish to go back to performing help-desk tasks full time. Transferring to another position in OITS was viewed as career advancement.

Finally, all the former help-desk employees interviewed stated that they still get occasional direct calls for assistance, with one remarking that contract employees also receive calls from individuals they have helped in the past on a specific issue. While the former help-desk employees did not mind the practice, they were aware that bypassing the FootPrints[18] system can skew the help-desk statistics[19], and said that they do enter such calls into the system.

In summary, the former help-desk employees expressed both benefits and drawbacks to using all contractors for the help-desk, but overall expressed a clear

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[16] Between September 2008 and February 2009, all CFTC employees will receive a new desktop PC. The new desktop PCs will have Microsoft Office 2007 installed. OITS is still exploring whether to upgrade to Microsoft XP or Vista.
[17] During this review period the Digicon contract was competitively bid, and Digicon was successful in winning the contract to render help-desk services at the CFTC.

[18] FootPrints® is a web-based help-desk and issue management system used at the CFTC-OITS. Issue (can also be called an "entry," "call," or ticket,") is the default name given to a FootPrints record.
[19] During this review we chose not to examine the internal controls associated with producing help-desk data such as frequency of service calls.

preference for contractors based on Agency needs, hiring flexibilities, and ease of management.

Interviews with Help-desk Users. We interviewed 20 headquarters help-desk users chosen at random.[20] Our goal was to give employees an informal forum to describe their help-desk experiences and any suggestions for improvements in their own words. We were especially interested in employee experiences with the help-desk after it became staffed with all contract employees. We interviewed employees from all divisions, and included employees in supervisory, non-supervisory and administrative positions. The employees we interviewed had been with CFTC from a few as two months to over 30 years. Interviews were in person, and lasted between 15 minutes and an hour, depending on the employee. We asked the same several questions to each employee, and received a great deal of useful information from advice and information volunteered by the help-desk users.

All of the help-desk users reported overall positive experiences with the help-desk after September 2006, when the help-desk began operating with all contract employees. None of the help-desk users reported having a problem that could not be resolved or having a recurring problem requiring multiple help-desk calls. None of the help-desk users reported being told to reboot their machines, only to suffer a recurrence of the problem.[21] The help-desk users mostly detailed minor problems requiring help-desk assistance; however, users were not always sure the problem occurred after September 2006. Consequently, the help-desk users were usually but not always certain they had been assisted by a contract employee. Notwithstanding the overall level of satisfaction with the help-desk staff, several of the help-desk users had suggestions for improvement.[22]

Former help-desk employees had warned of two potential problems that were not described by the help-desk users.[23] However, we did learn that, as suggested by the former help-desk employees, help-desk users were experiencing situations where a contract employee lacked necessary expertise in a desktop program or a CFTC modification. One help-desk user described a situation where he reported difficulties opening an email attachment – a Microsoft Excel spreadsheet. The help-desk could not resolve the issue after a period of six hours, and a CFTC OITS employee examined the problem and realized the sender had placed a "sort and lock" on the document. This problem apparently did not appear to stem from a unique program modification, and may instead have resulted from inadequate familiarity with Microsoft Excel by the contractor, but the reported six hour wait prior to consulting with an OITS employee was consistent with the view of former help-desk employees that the contract help-desk employees are reluctant to ask for assistance within OITS when needed. The same

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[20] We did not interview a statistically significant portion of headquarters staff.
[21] A former help-desk employee had suggested we inquire as to this practice.
[22] Please see Appendix 1-Additional Employee Comments.
[23] These problems were: 1) instructing a user to reboot rather than fixing a larger problem, and 2) calling a help-desk contract employee or former help-desk FTE directly. None of the help-desk users raised these issues.

help-desk user reported that Internet connectivity was lost following a computer upgrade. It appeared to this help-desk user that the help-desk employees had not been given enough information about the upgrade to locate the source of the problem. Again, a CFTC employee resolved the issue.

Interviews of Regional Coordinators. The CFTC regional offices use the Washington D.C. based help-desk, as well as local full time Agency OITS. We interviewed the Regional Coordinators with the goal of providing an opportunity to discuss the help-desk experience in the regional offices, and to hear suggestions for improvements. This time we had no prepared questions. The Regional Coordinators reported that the full time employees in their regional office provide most of the necessary assistance in the region and that contract employees also provide support. The DC based help-desk is used occasionally. The Regional Coordinators reported no significant problems with help-desk assistance for themselves or for their staff. All three Regional Coordinators stated that they would not be averse to transitioning to an all-contractor staff on-site to provide IT services in the regions. All three noted the need to update IT staff as necessary to maintain skill levels necessary to service evolving CFTC IT applications.

CONCLUSIONS

The OIG reviewed all Agency contracts as supplied by the Office of Financial Management, and found nothing to indicate that contract employees were performing inherently governmental tasks.

We evaluated two of the largest contracts (in dollar amounts) awarded for services – the NG and Digicon contracts. Our goal was to evaluate the benefits received by the Agency from outsourcing computer applications development services and computer help-desk services provided to Agency employees, to evaluate whether these contracts were cost-effective and to identify any problems with contract performance and possible suggestions for improvement. The OIG relied on interviews and contract performance data to evaluate the benefits received by Agency employees. This was the best available data that we could acquire for this review.

The NG contract provided specialized software development for surveillance of the burgeoning derivatives industry, and all available information indicated that full time employees could not be obtained at CT pay levels to perform the work, and current CT employees could not be trained without suffering significant delays. We focused on the cost increases for this contract and questioned the COTR and other supervisory individuals at length. The observed cost increases corresponded to increased need for services not included in the original contract. We concluded that, during the review period, the contract increases were justified and the contract tasks did not change sufficiently to require a new bidding process.

The Digicon contract required closer analysis. CFTC employees had provided help-desk assistance for CFTC systems and applications since 1989, and contract

employees had only been introduced in 2003. The historic use of CFTC employees to perform help-desk tasks raised several questions: had the nature of CFTC systems and applications changed so drastically that CFTC employees no longer could provide adequate help-desk support, and was the change to outsource the helpdesk function reasonable, and did the Agency employees receive adequate service under the new paradigm? These questions took on importance because we had received informal and anecdotal indications over the past few years that the transition to contract employees for help-desk services was not improving services and was not cost-effective.

The bulk of our interviews therefore concerned the Digicon contract. After interviewing 36 CFTC employees, including COTRs, supervisors, help-desk users and former help-desk employees we found that, while help-desk services could be improved, there was no evidence that the change to an all contractor help-desk has resulted in a reduction in the quality and availability of service to CFTC employees.

We conclude that comparing the relative costs of contractors versus full time Agency employees to provide the IT services as provided by NG and Digicon is not necessary at this time. With the NG contract we conclude, based on interviews with COTRs, supervisors and our examination of the contracts, that the Agency could not hire comparably skilled employees in the current market at current CFTC pay levels. Moreover, the need to constantly update staff in order to obtain employees skilled in new CFTC applications as those applications are developed, makes it appropriate in terms of effectiveness and cost efficiency to employ contractors rather than Agency employees.

Likewise, with regard to the Digicon contract, we did not perform a detailed analysis of the actual costs of employing full-time employees versus contract employees for the help-desk (although we did review the detailed costs associated with each contractor in this contract). CFTC can provide efficient help-desk services only if it can employ staff current with new applications as they are introduced, and using contractors accomplishes this function. Agency employees with an opinion unanimously opined that it will ultimately cost CFTC more to retain and retrain full time IT employees with obsolete skills on board than to employ contract employees on an as-needed basis for the help-desk; however, because CFTC cannot obtain employees at CT pay levels to perform these tasks and be able to replace them as necessary, we conclude this analysis is not necessary.

Consequently, we conclude that the Agency's decisions regarding the use of contractors during the review period conforms to current statutory and regulatory guidance regarding the use of contractors to perform commercial tasks. [24] With regard to the Digicon and NG contracts, we further conclude that the decision to employ contractors to supply IT services was supportable without requiring a cost benefit analysis.

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[24] Please see Appendix 2-Regarding Information Technology help-desk data on comparable federal agencies.

Nevertheless, we have recommendations.

RECOMMENDATIONS

Our recommendations are largely based on the views expressed during the interviews we conducted. They are targeted towards the Digicon contract and the help-desk:

- Because we learned that contractors on occasion have not appeared to be well trained in CFTC-specific modifications, we recommend that OITS carefully evaluate the contract employees' proficiency with CFTC systems and appropriate off-the-shelf software prior to hiring, and thoroughly train contractors in any CFTC-unique modifications;

- Because interviewees indicated that contract employees do not ask for information within the Agency regarding CFTC-unique applications, we recommend that OITS provide the help-desk with Agency employee contacts as necessary to permit help-desk employees to obtain assistance regarding network applications and Agency operations, and further recommend that these contacts include former help-desk employees; and

- We also recommend that OITS carefully evaluate the log of calls to the help-desk for three purposes:

  - To identify issues that require consultation with CFTC staff. If the help-desk logs currently do not track instances of consultation with CFTC employees, the Agency should begin to track this information. Issues requiring multiple inquiries to CFTC staff by multiple contract employees should indicate a need for specific training for the contract employees.

  - To identify repeat problems with specific help-desk employees. These employees should be trained or replaced, and the specific skill deficiency should be given attention when screening new contract employees.

  - To identify weaknesses in IT knowledge and skill among Agency staff. Repeat help-desk queries regarding a specific issue could indicate a need to train CFTC employees.

APPENDIX 1-Additional Employee Comments

The Office of the Inspector General invited help-desk users to describe their experiences with the help-desk and to offer any suggestions for improvement. Complaints that were consistent with information obtained from other sources were detailed in the body of this report, and provided the basis for recommendations. The problems detailed below were less frequently described, and the employees interviewed were not always sure that the problems occurred after the help-desk transitioned to an all-contractor staff. Consequently, the problems described below may have originated with Agency staff or contractor staff. We provide these comments in order to assist the help-desk in its operations.

- One help-desk user reported that he received a "FootPrints" notice by email that was actually incorrect. It indicated that a problem had been resolved when it had not been resolved. The problem was thereafter resolved to the user's satisfaction.

- Two help-desk users reported that turnover among help-desk staff appears to be too frequent. One former help-desk staffer made a similar remark and suggested that contractors wear name badges clearly identifying themselves and their status.

- One help-desk user reported that resolving issues with Multi-Functional Devices (MFDs) can be difficult because the Office of Management Operations (OMO) handles some MFD issues, while the Office of Information and Technology Services (OITS) help-desk handles others, and the process of resolving which office will respond has caused delays.

- Two help-desk users reported that it is difficult to reserve laptops, cell phones and Blackberries.

- One help-desk user opined that the help-desk should be better trained in Govtrip. CFTC should take care to hire contract employees with expertise in Govtrip.

- Three help-desk users stated that getting help before and after regular work hours can be problematic.

- Several help-desk users stated that FootPrints was difficult to follow or that they don't follow Footprints.

- One help-desk user reported frustration with waiting 20 minutes for toner, when a supervisor needed a document printed immediately.

The help-desk users had suggestions for improvement, including the following:

- Consider authorizing some CFTC employees to change toner. It may save the help-desk time and effort if certain employees who are designated by their component are trained to do this task. CFTC employees used to perform this task.

- Consider streamlining the procedures to borrow a laptop, cell phone, etc...

- Consider having the help-desk workers wear distinctive badges with their name and their contract employee status.

- With regard to "FootPrints", consider including a summary section clearly written for employees, or state that the notice is intended solely for the use of the help-desk.

- Encourage OMO and OITS staff to orchestrate repairs to MFDs as quickly as possible. Two possible solutions are to work out in advance which repairs will be handled by which component and to designate staff from each component to handle MFD repair issues on an ongoing basis.

APPENDIX 2-Selected Comparable Federal Agencies
Office of Information Technology Services-
Help-Desk Employee Structure

The Office of the Inspector General (OIG) compared other federal Agency practices regarding the use of contract employees to perform Information Technology (IT) related services in order to inform our analysis of the Digicom contract. Federal Agencies are not required to issue official statements or reports describing their Agency's use of contract employees for IT services. Consequently, we did not ask Agencies to issue official statements, in this regard, and instead consulted with staff from the Agencies below to obtain informal views regarding the use of contract employees for IT services. We focused on smaller agencies, and on an agency that may have a similar regulatory mission to the CFTC.

Securities and Exchange Commission (SEC)

In FY 2007, the SEC employed 3,431 full time employees (FTEs) and 39 temporary employees.[25] As of July 2008, our understanding is that the SEC's Office of Information Technology help-desk is staffed by approximately 25 contractors in the Washington DC headquarters. Help-desk contractors provide technical software and hardware assistance on a 24 hours/7days basis. Additionally the SEC has approximately 30 career employees, known as Information Technology Specialist, who interact directly with SEC employees on all IT related matters. In each of the 11 regional offices there is, at minimum, one local IT specialist who can address all IT matters for that regional office. In most instances the FTE is the first person to interact with an Agency employee to diagnose and prescribe a solution to a computer related problem. However, employees in the regional offices can also contact the help-desk in DC to obtain assistance.

Farm Credit Administration (FCA)

In its FY 2007 Performance Accountability Report (PAR) FCA reports a staff of 262 full- and part-time employees.[26] The IT division has a total staff of 25 career employees, including 9 on the help-desk. The FCA IT division, in contrast to CFTCs, also handles some personnel duties, such as credit card assignments. FCA does not use contractors with the exception of an occasional contractor to teach when there is an upgrade or technological change, such as new laptops or a program such as Lotus Notes.

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[25] United States Securities and Exchange Commission Performance and Accountability Report Fiscal Year 2007, p. 7. http://www.sec.gov/about/secpar2007.pdf.
[26] Farm Credit Administration Performance and Accountability Report Fiscal Year 2007, p. 4. http://www.fca.gov/Download/2007%20Performance%20and%20Accountability%20Report%20Final.pdf.

National Credit Union Administration (NCUA)

In its FY 2007 PAR, the NCUA reports a staff of approximately 929 FTEs.[27] NCUA Office of Information Technology (known as OCIO) has 32 career employees and an additional 14 contract employees. On the help-desk, there is 1 contract employee and 8 career employees.

International Trade Commission (ITC)

In its FY 2007 PAR, the ITC reports a staff of approximately 345 FTEs.[28] As of April 2008, our understanding is that the ITC employed 34 individuals in its IT division. Some of the separate ITC operating components also employ individuals to perform IT functions. Contract employees make up approximately half the help-desk, and are employed to upgrade systems databases and to perform other unique IT projects. ITC also uses term employees as a way to permit it to refresh staff on a regular basis.

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[27] National Credit Union Administration Annual Performance Budget 2008, p. 11. http://www.ncua.gov/ReportsAndPlans/plans-and-reports/2006/APB2008_Final.pdf.
[28] United States International Trade Commission Performance and Accountability Report Fiscal Year 2007, p. 5, http://www.usitc.gov/ext_relations/about_itc/USITC_PAR_2007.pdf; United States International Trade Commission Year in Review Fiscal Year 2006, p. 28. http://hotdocs.usitc.gov/docs/pubs/year_in_review/pub3915.pdf.