Office of
INSPECTOR GENERAL

Audit Report

Review of Procurement Related Issues

Report No. IG-01-94

February 1994

Date Issued

INSPECTOR GENERAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

February 7, 1994

REVIEW OF PROCUREMENT RELATED ISSUES

Federal law requires annual reporting on two aspects of procurement: lobbying activities and advisory and assistance services. In addition to these legal requirements, we identified two areas, contract close-out and audit follow-up, as the focus of the triennial review of procurement. This review was scheduled for fiscal year 1994 in accordance with the requirements of Office of Management and Budget (OMB) Circular A-128 that requires a detailed evaluation of agency financial systems, or subsystems, on a cyclical basis not to exceed three years.

The objectives of this review were to determine whether the Commission is complying with the requirements of Public Law 101-121 on lobbying activities, evaluate the progress of the Commission in establishing effective management controls over advisory and assistance services, determine whether contracts are closed in a timely manner, and ascertain whether the actions agreed upon by management in response to prior recommendations and suggestions have been implemented and effectively address the findings.

This review was conducted by Urbach Kahn & Werlin PC in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. The results of their review are presented in four issue area reports that are summarized below and included in entirety as parts of this audit report.

-- **Review of USITC's Compliance with Public Law 101-121 on Lobbying Activities**
All required disclosures on lobbying activities from contractors were obtained timely and semiannual and annual reports were properly filed as required.

-- **Follow-up Review of USITC's Procurement Related Audits and Reviews**
The review did not disclose any instances which indicated that the Commission did not take the appropriate action relative to the recommendations and suggestions in prior audit and inspection reports, or that these actions did not resolve the respective issues.

-- **Review of USITC's Procurement of Advisory and Assistance Services**

The Commission spent $69,959 on advisory and assistance services in fiscal year 1993. The review did not disclose any significant instances of non-compliance with Federal laws and regulations or Commission policies and procedures. The auditors did find that the procurement and accounting system records were not reconciled in a timely manner at year end, and some advisory and assistance checklists were not properly completed.

-- **Review of USITC's Contract Close-out Procedures**
Only two contracts were physically completed in fiscal years 1992 and 1993; neither were closed-out in accordance with Federal guidelines. A result of not promptly initiating close-out procedures was that funds were not properly deobligated on two contracts. Other matters identified were the need to improve policy and procedures for retention of documents and to eliminate duplication in procurement guidelines.

The primary recommendation from the above findings was that the Procurement Division establish a tracking system to monitor expired contracts. Recommendations concerning advisory and assistance services were to make timely reconciliations and review checklists.

A major emphasis of the National Performance Review (NPR) is to streamline procurement and a specific action recommended in the report is to bring federal procurement laws up to date. The NPR Report identified four federal labor laws for consideration as to whether the laws are still necessary and the burdens they impose on the procurement system are reasonable ones. I believe that the laws for lobbying activities and advisory and assistance services need to be reviewed for these considerations also. In my opinion, the level of procurement activity at the Commission does not justify the effort required to ensure compliance and submit reports for lobbying activities or advisory and assistance services.

The audit report does not have recommendations concerning this issue because the Commission cannot remedy the situation. However, I believe there are several steps that the Commission might consider taking. The Commission could support any efforts to amend these laws and/or exempt small agencies from the requirements. In addition, the Commission could request a waiver based on past activity levels and audit findings or ask that guidance be issued reducing the requirements for small agencies.

The Director of Administration concurred with the recommendations and suggestions. A summary of the Director's comments is presented after each finding and other matter on pages B-4, C-7, C-9, D-6, and D-7 of the report. The Director's comments are presented in their entirety as an appendix to the report.

Jane E. Altenhofen

Jane E. Altenhofen
Inspector General

UNITED STATES INTERNATIONAL TRADE COMMISSION

REVIEW OF USITC'S COMPLIANCE WITH PUBLIC LAW 101-121 ON LOBBYING ACTIVITIES

NOVEMBER 1993

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S COMPLIANCE WITH PUBLIC LAW 101-121 ON LOBBYING ACTIVITIES

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INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UNITED STATES INTERNATIONAL TRADE COMMISSION
Office of Inspector General

We have performed certain agreed-upon procedures related to the compliance with *Public Law 101-121* on lobbying activities within the United States International Trade Commission (USITC). The procedures, identified in Section II of this report, were agreed to by USITC's Office of Inspector General and were performed solely to assist USITC in evaluating its compliance with *Public Law 101-121*. This report is intended solely for the information of USITC. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

The objectives of this engagement included the performance of agreed-upon procedures by Urbach Kahn & Werlin PC (UKW) to determine findings with respect to the following:

- the adequacy of all semi-annual reports submitted to Congress,
- whether the prior year evaluation was submitted to Congress with the annual budget justification,
- whether USITC complied with provisions of *Public Law 101-121* and *Federal Acquisition Regulation* subparts 3.8, 52.203-11, and 52.203-12,
- the adequacy of actions implemented relative to prior year suggestions, and
- whether USITC's policies and procedures are in compliance with Federal laws and regulations.

The results of our procedures did not disclose any instances of non-compliance with Federal laws and regulations or USITC policies and procedures. Additionally, USITC properly addressed and resolved suggestions which resulted from the prior year review.

URBACH KAHN & WERLIN PC

Washington, DC
November 15, 1993

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SECTION I

BACKGROUND

UNITED STATES INTERNATIONAL TRADE COMMISSION REVIEW OF USITC'S COMPLIANCE WITH PUBLIC LAW 101-121 ON LOBBYING ACTIVITIES

BACKGROUND

USITC is an independent agency of the United States Government created by an act of Congress. USITC conducts investigations and reports findings relating to international trade and economic policy matters on behalf of both the Congress and President. USITC has budget appropriations for fiscal years 1993 and 1994 of $44,852,000 and $43,500,000, respectively.

The Procurement Division in the Office of Management Services (OMS) processes all procurement actions, except for General Services Administration work orders, which are the responsibility of OMS' Facilities Management Division. For fiscal year 1993, USITC procured approximately $2.4 million worth of goods and services. USITC follows the *Federal Acquisition Regulation* (FAR) and applicable laws for awarding, administering and reporting on contract procurements.

Public Law 101-121 requires that none of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any Federal action. The law also requires that the Inspector General conduct an evaluation each year of USITC's compliance with these requirements.

The FAR in subpart 3.803 requires any contractor proposing on or awarded a Federal contract in excess of $100,000 to submit a certification (and in certain circumstances a disclosure) of lobbying activities to the contracting officer. In addition, the contracting officer is required to forward a copy of all lobbying activity disclosures to a designated official for subsequent submission to Congress. In the event that no disclosure forms are required, USITC is required to submit a report to Congress indicating that there were no disclosures required to be submitted.

SECTION II

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION REVIEW OF USITC'S COMPLIANCE WITH PUBLIC LAW 101-121 ON LOBBYING ACTIVITIES

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

Objectives

UKW was engaged to perform agreed-upon procedures related to compliance with *Public Law 101 -121* on Lobbying Activities within USITC. The objectives of this engagement included the performance of agreed-upon procedures by UKW to determine findings with respect to the following:

- the adequacy of all semi-annual reports submitted to Congress,
- whether the prior year evaluation was submitted to Congress with the annual budget justification,
- whether USITC complied with provisions of *Public Law 101-121* and *Federal Acquisition Regulation* subparts 3.8, 52.203-11, and 52.203-12,
- the adequacy of actions implemented relative to prior year suggestions, and
- whether USITC's policies and procedures are in compliance with Federal laws and regulations.

Scope

UKW conducted its review from October 18 through November 15, 1993 at the offices of USITC in Washington, DC. UKW's engagement staff met with USITC personnel with responsibilities over lobbying activity requirements, reviewed USITC policies and directives, and tested all fiscal year 1993 contract files for which lobbying activity regulations would apply. Our review only identified one contract subject to these provisions.

Methodology

The general procedures performed by UKW were as follows:

- reviewed prior audit and inspection reports issued by the Office of Inspector General and related workpapers.
- documented whether recommendations from prior audits and inspections have been effectively implemented.
- reviewed USITC policies and directives relative to lobbying activities reporting requirements.
- reviewed USITC's compliance with applicable provisions of *Public Law 101-121* and FAR subparts 3.8, 52.203-11, and 52.203-12.
- interviewed individuals in the Procurement Division and Office of Finance and Budget who are assigned responsibilities relative to compliance with regulations on lobbying activities and the submission of reports to Congress.

- identified any changes in USITC policies and procedures implemented during fiscal year 1993.
- determined all contracts and modifications for fiscal year 1993 subject to the regulatory provisions on lobbying activities.
- reviewed required certifications in contract files to ascertain existence and completeness.
- reviewed reports submitted to Congress to determine the following:
  - ✓ whether negative as well as positive reports were submitted, and
  - ✓ whether reports were complete, accurate and filed timely.

Conclusions

The results of our procedures did not disclose any instances of non-compliance with Federal laws and regulations or USITC policies and procedures. We noted that all required disclosures from contractors were obtained timely and that semi-annual and annual reports were properly filed as required. We also found that USITC properly addressed and resolved suggestions disclosed in the prior year review.

UNITED STATES INTERNATIONAL TRADE COMMISSION

FOLLOW-UP REVIEW OF USITC'S PROCUREMENT RELATED AUDITS AND REVIEWS

NOVEMBER 1993

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

UNITED STATES INTERNATIONAL TRADE COMMISSION
FOLLOW-UP REVIEW OF USITC'S PROCUREMENT RELATED AUDITS AND REVIEWS

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INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UNITED STATES INTERNATIONAL TRADE COMMISSION
Office of Inspector General

We have performed certain agreed-upon procedures related to a follow-up review of procurement related audits and reviews within the United States International Trade Commission (USITC). The procedures, identified in Section II of this report, were agreed to by USITC's Office of Inspector General and were performed to assist USITC in evaluating and improving its procurement system. This report is intended solely for the information of USITC. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

The objectives of this engagement included the performance of agreed-upon procedures by Urbach Kahn & Werlin PC (UKW) to determine findings with respect to the following:

- the adequacy and effectiveness of prior procurement audit recommendations and suggestions, and subsequent USITC action, and
- whether the prior procurement audit recommendations and suggestions, and subsequent USITC action resolved the issue.

The results of our procedures did not disclose any significant instances which indicated that USITC did not take the appropriate action relative to the recommendations and suggestions, or that these actions did not resolve the respective issue. We did note one additional matter included in Section III of this report.

URBACH KAHN + WERLIN PC

Washington, DC
November 15, 1993

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SECTION I

BACKGROUND

UNITED STATES INTERNATIONAL TRADE COMMISSION FOLLOW-UP REVIEW OF USITC'S PROCUREMENT RELATED AUDITS AND REVIEWS

BACKGROUND

USITC is an independent agency of the United States Government created by an act of Congress. USITC conducts investigations and reports findings relating to international trade and economic policy matters on behalf of both the Congress and President. USITC has budget appropriations for fiscal years 1993 and 1994 of $44,852,000 and $43,500,000, respectively.

The Procurement Division in the Office of Management Services (OMS) processes all procurement actions, except for General Services Administration work orders, which are the responsibility of OMS' Facilities Management Division. For fiscal year 1993, USITC procured approximately $2.4 million worth of goods and services. USITC follows the *Federal Acquisition Regulation* (FAR) and applicable laws for awarding, administering and reporting on contract procurements.

Previous procurement related audit and inspection reports are as follows:

- *Audit of Procurement Policies and Procedures Within USITC*, issued September 13, 1991. This audit included eleven recommendations and the completed action was approved by the Chairman on September 28, 1992.

- *Review of USITC's Space Utilization Charges*, issued August 24, 1992. This review included five recommendations and suggestions.

- *Legal Review as Internal Control in Procurement Process*, issued March 31, 1993. This inspection report included two suggestions.

SECTION II

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION
FOLLOW-UP REVIEW OF USITC'S PROCUREMENT RELATED AUDITS AND REVIEWS

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

Objectives

UKW was engaged to perform agreed-upon procedures related to a follow-up review of procurement related audits and reviews within USITC. The objectives of this engagement included the performance of agreed-upon procedures by UKW to determine findings with respect to the following:

- the adequacy and effectiveness of prior procurement audit recommendations and suggestions, and subsequent USITC action, and
- whether the prior procurement audit recommendations and suggestions, and subsequent USITC action resolved the issue.

Scope

UKW conducted its review from October 18 through November 15, 1993 at the offices of USITC in Washington, DC. UKW's engagement staff met with USITC personnel with responsibilities over procurement related issues, reviewed USITC policies and directives, and examined prior procurement related audit, review and inspection reports.

Methodology

The general procedures performed by UKW were as follows:

- reviewed prior procurement related audit, review and inspection reports issued by the Office of Inspector General, and related workpapers.
- documented whether recommendations and suggestions from prior audits, reviews and inspections have been effectively implemented.
- reviewed the appropriateness of prior recommendations and suggestions, and whether the subsequent USITC action was effective in resolving the issue.

Conclusions

The results of our procedures did not disclose any instances which indicated that USITC did not take the appropriate action relative to the recommendations and suggestions, or that these actions did not resolve the respective issues.

SECTION III

OTHER MATTERS AND SUGGESTIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION
FOLLOW-UP REVIEW OF USITC'S PROCUREMENT RELATED AUDITS AND REVIEWS

OTHER MATTERS AND SUGGESTIONS

The USITC Inspector General's *Inspection Report 8-93, Legal Review as Internal Control in Procurement Process* recommended several improvements to the Office of General Counsel's (OGC) involvement in the procurement and contracting process including reducing OGC's time to perform follow-up legal reviews. To date, the Director of the Office of Administration and the General Counsel are in discussions to address this issue and have not yet reached consensus. This issue should be monitored in the coming year to ensure a timely resolution.

Management's response

"Several discussions have been held to discuss the matter of the timing and extent of legal reviews by the Office of General Counsel. In addition to the General Counsel and the Director, Office of Administration the Chief, Procurement Division and the Director, Office of Management Services have also been involved in the discussions.

Considerable progress has been made including the Procurement Division providing the General Counsel with a monthly report on the procurement actions requiring legal review and frequent discussions with the attorneys assigned to particular contracts. The matter of extent of legal review should depend on the nature of the contractual action. More discussions are planned after the return of the Procurement Division Chief who has been on extended sick leave. Additionally, we look forward to the appointment of an Assistant General Counsel for Administration, a position which the General Counsel announced on January 7, 1994." Target completion date: June 1, 1994.

UNITED STATES INTERNATIONAL TRADE COMMISSION

REVIEW OF USITC'S PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

NOVEMBER 1993

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

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INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UNITED STATES INTERNATIONAL TRADE COMMISSION
Office of Inspector General

We have performed certain agreed-upon procedures related to procurement of advisory and assistance services within the United States International Trade Commission (USITC). The procedures, identified in Section II of this report, were agreed to by USITC's Office of Inspector General and were performed to assist USITC in evaluating and improving its procurement of advisory and assistance services. This report is intended solely for the information of USITC. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

The objectives of this engagement included the performance of agreed-upon procedures by Urbach Kahn & Werlin PC (UKW) to determine findings with respect to the following:

- the adequacy and effectiveness of internal control procedures related to preparation of the advisory and assistance service checklists, and advisory and assistance reporting requirements to the Federal Procurement Data System (FPDS),
- the adequacy and effectiveness of the process and controls for experts or consultants hired under personnel authority, if any,
- the adequacy of reporting to the FPDS,
- whether the prior year evaluation was submitted to Congress with the annual budget justification,
- whether USITC complied with provisions of *Office of Management and Budget, Circular A-120* and other regulations,
- the adequacy of actions implemented relative to the prior year suggestions, and
- whether USITC's policies and procedures are in compliance with Federal laws and regulations.

Our findings and recommendations are included in Section III of this report.

URBACH KAHN & WERLIN PC

Washington, DC
November 15, 1993

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SECTION I

BACKGROUND

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

BACKGROUND

USITC is an independent agency of the United States Government created by an act of Congress. USITC conducts investigations and reports findings relating to international trade and economic policy matters on behalf of both the Congress and President. USITC has budget appropriations for fiscal years 1993 and 1994 of $44,852,000 and $43,500,000, respectively.

The Procurement Division in the Office of Management Services (OMS) processes all procurement actions, except for General Services Administration work orders, which are the responsibility of OMS' Facilities Management Division. For fiscal year 1993, USITC procured approximately $2.4 million worth of goods and services. USITC follows the *Federal Acquisition Regulation* (FAR) and applicable laws for awarding, administering and reporting on contract procurements.

The Budget and Accounting Act of 1921, as amended, requires that the Inspector General conduct an evaluation of the progress of the agency in establishing effective management controls over advisory and assistance services and improving the accuracy and completeness of the information provided to the FPDS.

SECTION II

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

Objectives

UKW was engaged to perform agreed-upon procedures related to the procurement of advisory and assistance services within USITC. The objectives of this engagement included the performance of agreed-upon procedures by UKW to determine findings with respect to the following:

- the adequacy and effectiveness of internal control procedures related to the preparation of advisory and assistance service checklists, and advisory and assistance reporting requirements to the FPDS,
- the adequacy and effectiveness of the process and controls for experts or consultants hired under personnel authority, if any,
- the adequacy of reporting to the FPDS,
- whether the prior year evaluation was submitted to Congress with the annual budget justification,
- whether USITC complied with provisions of *OMB Circular A-120* and other regulations,
- the adequacy of actions implemented relative to the prior year suggestions, and
- whether USITC's policies and procedures are in compliance with Federal laws and regulations.

Scope

UKW conducted its review from October 18 through November 15, 1993 at the offices of USITC in Washington, DC. UKW's engagement staff met with USITC personnel with responsibilities over the procurement of advisory and assistance services, reviewed USITC policies and directives, and tested advisory and assistance transactions and records for fiscal year 1993.

Methodology

The general procedures performed by UKW were as follows:

- reviewed prior audit and inspection reports issued by the Office of Inspector General, and related workpapers.
- documented whether recommendations from prior audits and inspections have been effectively implemented.
- reviewed USITC policies and directives relative to the procurement of advisory and assistance services.

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

- reviewed USITC's compliance with the following applicable provisions:
  - ✓ *OMB Circular No. A-120, Guidelines for the Use of Advisory and Assistance Services,*
  - ✓ *USITC Administrative Order 92-11, Advance Notice to the Commission of Requests for Consultant (Advisory) Assistance,*
  - ✓ *48 CFR, subpart 9.5, Organizational and Consultant Conflicts of Interest,*
  - ✓ *OMB Circular No. A-11, Preparation and Submission of Budget Estimates on Consulting Services,* and
  - ✓ *Federal Personnel Manual, Employment of Individual Experts and Consultants*, Chapter 304.
- interviewed individuals in the Procurement Division and Office of Finance and Budget who are assigned advisory and assistance responsibilities relative to the procurement, budget, and submission of reports.
- identified any changes in USITC policies and procedures implemented during fiscal year 1993, particularly in regards to consultant conflicts of interest.
- evaluated the items on the advisory and assistance listing provided by the Procurement Division and performed the following procedures:
  - ✓ verified whether the services were properly classified as advisory and assistance services,
  - ✓ examined a listing of all contract actions for fiscal year 1993 to ascertain that no omissions were made to the advisory and assistance listing, and
  - ✓ reconciled the list to the accounting records maintained by the Office of Finance and Budget.
- reviewed the USITC portion of the *Budget of the United States Government - Fiscal Year 1994* to ascertain that advisory and assistance services were properly segregated, as required.
- reviewed the advisory and assistance checklists in the contract files and performed the following procedures:
  - ✓ verified the existence and completeness,
  - ✓ verified checklists were completed when required,

- ✓ verified proper signatures were obtained, and
- ✓ verified internal controls are adequate.

- reviewed quarterly reporting to the Federal Procurement Data System and performed the following procedures:
  - ✓ verified forms were filed timely,
  - ✓ verified required Standard Form 279 for advisory and assistance were submitted and properly coded as advisory and assistance services, and
  - ✓ verified internal controls are adequate.
- interviewed employees from the Office of Personnel to document whether any experts or consultants were hired under personnel authority in fiscal year 1993.

Due to the rescission of *OMB Circular A-120*, effective after the last date of our field work, the following replacement documents as determined by OMB have been considered and their requirements or changes incorporated into our recommendations:

- *OFPP Policy Letter 93-1, Management Oversight of Service Contracting*
- *OFPP Policy Letter 92-1, Inherently Governmental Functions*
- *OFPP Policy Letter 91-2, Service Contracting*
- *OFPP Policy Letter 89-1, Conflicts of Interest Applicable to Consultants*
- *OMB Circular A-76, Performance of Commercial Activities*
- *OFPP's Guidance on Contract Administration*

Conclusions

The results of our procedures did not disclose any significant instances of non-compliance with Federal laws and regulations, or USITC policies and procedures. We did, however, identify certain findings and recommendations, which are discussed under Section III of this report.

SECTION III

FINDINGS AND RECOMMENDATIONS

FINDINGS AND RECOMMENDATIONS

1) *PROCUREMENT'S COMPUTER SYSTEM SCHEDULE (SACONS) WAS NOT RECONCILED TO USITC'S ACCOUNTING SYSTEM FOR ADVISORY AND ASSISTANCE SERVICES PROPERLY AS OF SEPTEMBER 30, 1993.*

Condition

As of September 30, 1993, the schedule generated by the procurement computer system (SACONS) had a total of $60,740 for 1993 advisory and assistance services purchased by USITC. The accounting system, maintained by the Office of Finance and Budget (OFB), however, indicated that the amount for advisory and assistance services was $70,582. The differences are as follows:

- An advisory and assistance contract modification for $10,760 effective September 13, 1993 was correctly reported in the accounting system, but, was excluded from the SACONS system listing.

- The remaining $918 difference was due to an invoice amount which was lower than the small purchase order amount, and is a normal reconciling item rather than a finding.

In addition, both the SACONS system and the accounting system incorrectly reported $617 for travel expenses of consultants. The reconciled listing and amount of advisory and assistance services are as follows:

Contractor name	Contract number	Amount	Purpose
Urbach Kahn & Werlin	ITC-CN-93-0002	$67,390	Audit services
Briere Associates, Inc.	ITC-OP-93-0409	1,575	Edit and review of aircraft investigation
U.S. Recording Company	ITC-RB-93-0187	994	Technical audio visual services
Total		$69,959	

Criteria

OMB Circular A-120 states, "...Each Agency will assure that it maintains an accounting or information system which effectively monitors and reports advisory and assistance service activities..."

Cause

Fiscal year 1993 was the first year in which all contracts were incorporated into the SACONS system. Procurement personnel had indicated that the advisory and assistance listing does occasionally omit contract modifications. Although the reason was not yet

determined, PRD is aware of the discrepancy and will continue to improve the SACONS system. Additionally, the timing of the preparation of the reconciliation may have resulted in subsequent discrepancies which went unnoticed.

Effect

The advisory and assistance listing and corresponding amounts which are reported to Congress could be incorrectly reported.

Recommendation

1. We recommend the Procurement Division ensure that year-end reconciliations and its respective reports include the proper transactions for the fiscal year to ensure an adequate and timely reconciliation.

Management's response

"Agree. The SACONS system Administrator will be instructed via memorandum from the Chief, Procurement Division to reconcile the advisory and assistance listing with accounting system the first week in each November for the ending fiscal year." Target completion date: February 15, 1994.

2) *ADVISORY AND ASSISTANCE SERVICES CHECKLIST TO ENSURE COMPLIANCE WITH THE FAR AND OMB CIRCULAR A-120 SHOULD BE COMPLETE.*

Condition

Two of the five advisory and assistance services checklists examined did not have the boxes checked (items 7 and 8) which certified that the request for the use of advisory and assistance services complied with the FAR and *OMB Circular A-120*. The Chief, Procurement Division and the Director, Office of Management Services are responsible for completing items 7 and 8.

Criteria

USITC Directive 3601.1, 9.d.(3) states, "...a requisitioner must first complete the checklist Advisory and Assistance Services..."

Instructions for completion of this checklist states, "...The Chief, Contracting and Procurement Division, and the Director, Office of Management Services, complete items 7 and 8...".

Cause

The Procurement Division had indicated that these items were inadvertently overlooked. Procurement personnel believe that since the forms were signed by the proper officials, the certification of compliance with regulations was valid.

Effect

For two of the five checklists, it was not clear whether the certifications stating compliance with the FAR and *OMB Circular A-120* were valid.

Recommendation

We recommend that the Procurement Division and Office of Management Services:

2. Review the checklists more closely to ensure that items 7 and 8 are properly completed. If USITC determines that the signatures on the checklists represent compliance with the FAR and *OMB Circular A-120*, then USITC should consider deleting items 7 and 8 from the checklist and including an all inclusive statement regarding compliance with the noted regulations.

Management's response

"Agree. OMB Circular A-120 has been rescinded (November 19, 1993), therefore the Senior Procurement Executive will revise the procedures to conform with the FAR and OMB Policy Letter No. 93-1, dated November 19, 1993. At that time we will eliminate any confusion concerning signatures of review or approval." Target completion date: June 1, 1994.

UNITED STATES INTERNATIONAL TRADE COMMISSION

REVIEW OF USITC'S CONTRACT CLOSE OUT PROCEDURES

NOVEMBER 1993

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S CONTRACT CLOSE OUT PROCEDURES

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INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UK &W Urbach Kahn & Werlin PC
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

UNITED STATES INTERNATIONAL TRADE COMMISSION
Office of Inspector General

We have performed certain agreed-upon procedures related to the contract close out procedures within the United States International Trade Commission (USITC). The procedures, identified in Section II of this report, were agreed to by USITC's Office of Inspector General and were performed to assist USITC in evaluating and improving its contract close out procedures. This report is intended solely for the information of USITC. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

The objectives of this engagement included the performance of agreed-upon procedures by Urbach Kahn & Werlin PC (UKW) to determine findings with respect to the following:

- whether contracts were closed in the timeframes stipulated by *Federal Acquisition Regulation,*
- whether closed contract files were complete and provided support for receipt and acceptance of final deliverables,
- the timeliness and adequacy of deobligation on expired and closed contracts,
- whether justification exists for contracts which have expired, and have not been closed, and
- whether USITC's policies and procedures are in compliance with the FAR.

The engagement findings and other matters are included in Sections III and IV of this report.

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SECTION I

BACKGROUND

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S CONTRACT CLOSE OUT PROCEDURES

BACKGROUND

USITC is an independent agency of the United States Government created by an act of Congress. USITC conducts investigations and reports findings relating to international trade and economic policy matters on behalf of both the Congress and President. USITC has budget appropriations for fiscal years 1993 and 1994 of $44,852,000 and $43,500.000, respectively.

The Procurement Division in the Office of Management Services (OMS) processes all procurement actions, except for General Services Administration work orders, which are the responsibility of OMS' Facilities Management Division. For fiscal year 1993, USITC procured approximately $2.4 million worth of goods and services. USITC follows the *Federal Acquisition Regulation* (FAR) and applicable laws for awarding, administering and reporting on contract procurements.

The FAR section 4.804-5, requires that the office administering the contract (Procurement Division) to be responsible for initiating administrative close out of a contract after receiving evidence of physical completion. This process involves an initial excess funds review to be performed and reported to the Procurement Division and a final close out where excess funds are deobligated. Compliance with contract close out procedures has not specifically been addressed in prior reviews at USITC.

SECTION II

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S CONTRACT CLOSE OUT PROCEDURES

OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

Objectives

UKW was engaged to perform agreed-upon procedures related to the contract close procedures within USITC. The objectives of this engagement included the performance of agreed-upon procedures by UKW to determine findings with respect to the following:

- whether contracts were closed in the timeframes stipulated by the FAR,
- whether closed contract files were complete and provided support for receipt and acceptance of final deliverables,
- the timeliness and adequacy of deobligation on expired and closed contracts,
- whether justification exists for contracts which have expired, and have not been closed, and
- whether USITC's policies and procedures are in compliance with the FAR.

Scope

UKW conducted its review from October 18 through November 15, 1993 at the offices of USITC in Washington, DC. UKW's engagement staff met with USITC personnel with responsibilities over the contract close out procedures and the deobligation of unliquidated balances, reviewed USITC policies and directives, and tested all closed and expired contracts from fiscal year 1992 and 1993.

Methodology

The general procedures performed by UKW were as follows:

- reviewed the report on this subject prepared by the Department of Education, Office of Inspector General,
- documented and reviewed the practices utilized by the Procurement Division (PRD) to close expired contracts within stipulated timeframes as set forth by the FAR.
- documented and reviewed the practices utilized by the Office of Finance and Budget (OFB) to deobligate unliquidated balances on expired contracts.
- interviewed individuals from PRD and OMS who are assigned responsibilities related to the close out of contracts.
- interviewed individuals from OFB who are assigned responsibilities related to the deobligation of unliquidated balances.
- reviewed USITC's compliance with USITC polices and directives.
- reviewed USITC's compliance with the FAR subpart 4.803, 4.804, and 4.805.

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OBJECTIVES, SCOPE, METHODOLOGY AND CONCLUSIONS

- reviewed all contract files which were closed in fiscal year 1992 and 1993 and performed the following procedures:
  - ✓ verified whether the contracts were closed timely,
  - ✓ verified whether unliquidated balances were deobligated timely,
  - ✓ verified whether contract files included documentation to support receipt and acceptance of final deliverables, and
  - ✓ verified the files were complete.
- reviewed all contract files which expired by the end of fiscal year 1993 which had not been closed and performed the following procedures:
  - ✓ verified whether there was adequate justification supporting open contracts,
  - ✓ verified whether unliquidated balances were deobligated, and
  - ✓ verified that documentation was included in the files supporting the initiation of close out procedures.

Conclusions

The results of our procedures did not disclose any significant instances of non-compliance with the FAR, or USITC policies and procedures. We did, however, identify certain findings and recommendations, which are discussed under Sections III and IV of this report.

SECTION III

FINDINGS AND RECOMMENDATIONS

FINDINGS AND RECOMMENDATIONS

1) *TIMEFRAME FOR CONTRACT CLOSE OUT IS NOT CONSISTENT WITH THE FAR.*

Condition

Two contracts were closed out during fiscal years 1992 and 1993 at USITC. Neither contract was closed within the six month FAR guideline for firm fixed-priced contracts. A summary of the delays is as follows:

- The Free State Reporting, Inc. contract remained open for over 14 months. The final invoice was paid by USITC on August 8, 1992 (physical completion), however, final close out did not occur until October 22, 1993 (the date the Contract Completion Statement was signed by the Director, Office of Administration, contracting officer). The reasons for the 14 month delay were as follows:

  - ✓ The delay of over 9 months occurred due to the Procurement Division (PRD) not submitting the contract file to the contracting officer for final signature on the Contract Completion Statement. The last date of any close out completed action was January 12, 1993, however, the Contract Completion Statement was not signed by the contracting officer, until October 22, 1993.

  - ✓ The delay of over 4 months occurred due to PRD not sending a memorandum timely to the Contracting Officer Technical Representative (COTR) which certified that all goods and services under the contract had been received. The final invoice paid by OFB was August 8, 1992, however, the memorandum to the COTR was not sent by PRD until December 14, 1992. Since OFB does not pay invoices without proof of receipt, physical completion is deemed to occur no later than the date the final invoice was paid.

- The Cotton & Company contract remained open for 12 months. The final invoice was paid by USITC on October 14, 1992 (physical completion), however, final close out did not occur until October 22, 1993 (the date the Contract Completion Statement was signed by the Director, Office of Administration, contracting officer). The reasons for the one year delay were as follows:

  - ✓ PRD deferred the initiation of close out procedures for 6 months. The final payment under the contract was made October 14, 1992, however, PRD did not generate any close out memorandums until April 1993.

  - ✓ A delay of almost 6 months occurred due to PRD not submitting the contract file to the contracting officer for final signature on the Contract Completion Statement. The last date of any close out completed action was April 28, 1993 but the Contract Completion Statement was not signed by the contracting officer, until October 22, 1993.

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FINDINGS AND RECOMMENDATIONS

Criteria

The FAR, subpart 4.804-1(a)(2), states, "...Files for all firm fixed-price contracts other than small purchases should be closed within 6 months of the month in which the contracting officer receives evidence of physical completion..." For the purposes of our review, we have considered the payment of the final invoice as evidence of physical completion.

Cause

PRD indicated that its first priority is to satisfy work efforts with pending and potential contracts. Therefore, administrative close out of contracts often does not receive immediate attention. In addition, PRD indicated that there is a shortage of administrative personnel to perform such functions necessary to document contract close out.

Effect

The FAR is not being strictly adhered to. However, since the close out process did not affect the timely deobligation of unliquidated balances, the late administrative close out of contracts did not appear to cause a significant problem. However, minor corrections were made by OFB which were detected as a result of the close out process. Had the close out procedures been implemented timely, these discrepancies may have been detected earlier.

Recommendation

1. We recommend that PRD develop a tickler file or other system for tracking expiring contracts within USITC. This system will ensure that close out procedures are monitored and completed timely and improve USITC's compliance with the FAR.

Management's response

"Agree. The PRD has developed a listing of active contracts (tickler file) to provide information concerning expired contracts and contracts which are in the close out process." Target completion date: Complete.

2) *TWO INSTANCES OF FUNDS NOT PROPERLY DEOBLIGATED WERE FOUND.*

Condition

We noted one instance where a $3,908 unliquidated balance had not been deobligated one year after the expiration date of the contract (Evernet). We also noted one instance where a final invoice paid in October 1993 was made one month after OFB had deobligated the unliquidated balance under the contract (Advanced Information Network).

Criteria

The FAR, subpart 4.804-3, states, "...The paying office (OFB) shall close the contract file (deobligate unliquidated balances) upon issuance of the final payment voucher..."

Cause

It appears that administrative close out of contracts are not always being performed in a timely or effective manner. Outstanding issues affecting the close out of a contract may not be adequately communicated to OFB, resulting in problems with funds being properly deobligated.

Effect

Besides not being in compliance with the FAR, USITC may not be able to put these funds to use in other areas on a timely basis.

Recommendation

As discussed previously, a tracking system for monitoring expired contracts and its subsequent close out procedures should include steps to monitor OFB's process for deobligating funds to ensure it is complete and timely. (See recommendation 1.)

Management's response

"Agree. Since procedures are already in place under the Desk top Procedures for Contract Close Out, the Chief, Procurement Division will remind each Contract Specialist to review the procedures paying particular attention to the deobligation of funds." Target completion date: February 15, 1994.

SECTION IV

OTHER MATTERS AND SUGGESTIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION
REVIEW OF USITC'S CONTRACT CLOSE OUT PROCEDURES

OTHER MATTERS AND SUGGESTIONS

UKW's review also identified the following suggestions which UKW did not consider compliance issues, however would enhance the procurement system of USITC:

1) Since contract files are sent out to an off-site USITC storage facility when the contract is closed, our suggestion is for PRD or OMS to maintain records which identify which files had been sent out. In addition, a reference to the location within the storage facility and the date the contract file was sent out should be maintained. Lastly, we suggest that a policy be developed which addresses the FAR retention periods. OMS indicated that they believe contract files are currently held in the storage facility indefinitely. The FAR specifies that signed originals of contracts and modifications should be retained for a minimum of 6 years and 3 months after final payment under the contract is made.

   The following are our specific suggestions:

   a) USITC should establish a system to track which files are maintained in the storage facility, and where they can be found.

   b) Although an indefinite retention policy for some files seems prudent, USITC should establish a policy for exceptions to the FAR record retention policies.

Management's response

"A Dbase system for tracking files in the storage facility has been in place for some time. Additionally, desk procedures are in place for the person coordinating this function. Apparently the auditors did not have a clear understanding of this system at the time of their review and the presence of certain procurement files which have been placed in the storage facility. These files can be readily retrieved. We will revise *USITC Directive 3601.1* to include a retention schedule for the closed out contract files." Target completion date: June 1, 1994.

2) PRD maintains a *Procurement Policy and Procedures Guide* which substantially mirrors *USITC Directive 3601.1*. In addition, the *Procurement Policy and Procedures Guide* was last updated September 1990, whereas the *USITC Directive 3601.1* was revised September 1992.

   c) We suggest that either the *Procurement Policy and Procedures Guide* be eliminated to reduce redundancy, or that it be updated to reflect the relatively recent revisions to *USITC Directive 3601.1*.

Management's response

"Agree. An Administrative Notice will be issued by the Director of Administration to notify the procurement officials that we have eliminated the Procurement Policy and Procedures Guide and that they should use USITC Directive 3601.1 for procurement policies." Target completion date: February 28, 1994.

THE OFFICE OF ADMINISTRATION'S RESPONSE TO THE DRAFT REPORT, "REVIEW OF PROCUREMENT RELATED ISSUES"

REVIEW OF USITC'S COMPLIANCE WITH PUBLIC LAW 101-121 ON LOBBYING ACTIVITIES

No recommendations

REVIEW OF USITC'S PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

RECOMMENDATIONS:

1. We recommend the Procurement Division ensure that year-end reconciliations and its respective reports include the proper transactions for the fiscal year to ensure an adequate and timely reconciliation.

   RESPONSE: Agree

   The SACONS system Administrator will be instructed via memorandum from the Chief, Procurement Division to reconcile the advisory and assistance listing with accounting system the first week in each November for the ending fiscal year.

   TARGET COMPLETION DATE: February 15, 1994

2. Review the checklist more closely to ensure that items 7 and 8 are properly completed. If the USITC determines that the signatures on the checklists represent compliance with the FAR and OMB Circular A-120, then USITC should consider deleting items 7 and 8 from the checklist and including an all inclusive statement regarding compliance with the noted regulation.

   RESPONSE: Agree

   OMB Circular A-120 has been rescinded (November 19, 1993), therefore the Senior Procurement Executive will revise the procedures to conform with the FAR and OMB Policy Letter No. 93-1, dated November 19, 1993. At that time we will eliminate any confusion concerning signatures of review or approval.

   TARGET COMPLETION DATE: June 1, 1994

REVIEW OF USITC'S CONTRACT CLOSE OUT PROCEDURES

RECOMMENDATIONS:

1. We recommend that PRD develop a tickler file or other system for tracking expiring contracts within USITC. This system will ensure that close out procedures are monitored and completed timely and improve USITC's compliance with the FAR.

RESPONSE: Agree

The PRD has developed a listing of active contracts (tickler file) to provide information concerning expired contracts and contracts which are in the close out process.

TARGET COMPLETION DATE: Complete

2. As discussed previously, tracking system for monitoring expired contracts and its subsequent close out procedures should include steps to monitor OFB's process for deobligating funds to ensure it is complete and timely. (See recommendation 1.)

RESPONSE: Agree

Since procedures are already in place under the Desk top Procedures for Contract Close Out, the Chief, Procurement Division will remind each Contract Specialist to review the procedures paying particular attention to the deobligation of funds.

TARGET COMPLETION DATE: February 15, 1994

OTHER MATTERS AND SUGGESTIONS

1. Since contract files are sent out to an off-site USITC storage facility when the contract is closed, our suggestion is for PRD or OMS to maintain records which identify which files had been sent out. In addition, a reference to the location within the storage facility and the date the contract file was sent out should be maintained. OMS indicated that they believe contract files are currently held in the storage facility indefinitely. The FAR specifies that signed originals of contracts and modifications should be retained for a minimum of 6 years and 3 months after final payment under the contract is made.

The following are our specific suggestions:

a) USITC should establish a system to track which files are maintained in the storage facility, and where they can be found.

RESPONSE: A Dbase system for tracking files in the storage facility has been in place for some time. Additionally, desk procedures are in place for the person coordinating this function. Apparently the auditors did not have a clear understanding of this system at the time of their review and the presence of certain procurement files which have been placed in the storage facility. These files can be readily retrieved.

TARGET COMPLETION DATE: Complete

b) Although an indefinite retention policy for some files seems prudent, USITC should establish a policy for exception to the FAR record retention policies.

RESPONSE: Agree

We will revise USITC Directive 3601.1 to include a retention schedule for the closed out contract files.

TARGET COMPLETION DATE: June 1, 1994

2) PRD maintains a Procurement Policy and Procedures Guide which substantially mirrors USITC Directive 3601.1. In addition, the Procurement Policy and Procedures Guide was last updated September 1990, whereas the USITC Directive 3601.1 was revised September 1992.

c) We suggest that either the Procurement Policy and Procedures Guide be eliminated to reduce redundancy, or that it be updated to reflect the relatively recent revision to USITC Directive 3601.1.

RESPONSE: Agree

An Administrative Notice will be issued by the Director of Administration to notify the procurement officials that we have eliminated the Procurement Policy and Procedures Guide and that they should use USITC Directive 3601.1. for procurement policies.

TARGET COMPLETION DATE: February 28, 1994

FOLLOW-UP REVIEW OF USITC'S PROCUREMENT RELATED AUDITS AND REVIEWS

OTHER MATTERS AND SUGGESTIONS

The USITC Inspector General's Inspection Report 8-93, Legal Review of Internal Control in Procurement Process recommended several improvements to the Office of General Counsel's (OGC) involvement in the procurement and contracting process including reducing OGC's time to perform follow-up legal reviews. To date, the Director of the Office of Administration and the General Counsel are in discussions to address this issue and have not yet reached consensus. This issue should be monitored in the coming year to ensure a timely resolution.

RESPONSE: Several discussions have been held to discuss the matter of the timing and extent of legal reviews by the Office of General Counsel. In addition to the General Counsel and the Director, Office of Administration the Chief, Procurement Division and the Director, Office of Management Services have also been involved in the discussions.

Considerable progress has been made including the Procurement Division providing the General Counsel with a monthly report on the procurement actions requiring legal review and frequent discussions with the attorneys assigned to particular contracts. The matter of extent of legal review should depend on the nature of the contractual action. More discussions are planned after the return of the Procurement Division Chief who has been on extended sick leave. Additionally, we look forward to the appointment of an Assistant General Counsel for Administration, a position which the General Counsel announced on January 7, 1994.

TARGET COMPLETION DATE: June 1, 1994