

Federal Trade Commission

OFFICE OF INSPECTOR GENERAL

May 12, 2023



***Audit of FTC Resources
and Support for Expert
Witness Contracting
Officer Representatives***



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

May 12, 2022

MEMORANDUM

FROM: Andrew Katsaros
Inspector General

TO: David B Robbins
Executive Director

SUBJECT: Audit of FTC Resources and Support for Expert Witness Contracting Officer Representatives

The Office of Inspector General (OIG) conducted a performance audit to determine whether the FTC's Bureau of Competition (BC) expert witness contracts are administered in accordance with federal requirements. Specifically, the audit assessed the sufficiency of resources and support available to contracting officer representatives (CORs) monitoring the FTC's expert witness contracts, including the effectiveness of available training that supports COR monitoring of expert witness contracts.

Currently, the FTC's COR program meets the minimum federal requirements by stipulating that employees obtain a Federal Acquisition Certification-Contracting Officer's Representatives (FAC-COR) certification to become a COR. Nevertheless, the audit found that (I) COR training is difficult to access and bears little relevance to expert witness contracts and (II) assessment of COR performance is vague and inconsistent.

The FTC's response to the draft report's findings and recommendations is included as appendix D. The response reflects that the FTC concurred with the report's recommendations. Within 60 calendar days, please submit to us an action plan that addresses the recommendations in this report.

A public version of this report will be posted on the OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. §§ 404, 420).

The OIG greatly appreciates the cooperation and courtesies extended to us by the Office of the Executive Director, as well as BC management, throughout the audit.

If you have any questions regarding this report, please contact me at (202) 326-3527.

IN SUMMARY

Why We Performed This Audit

Expert witness contracts have been a “top risk” on the FTC’s risk register since 2017. A major component of the agency’s litigation costs, the FTC’s Bureau of Competition (BC) expert witness contracts will likely remain a significant concern for management in FY 2023.

In July 2022, we issued a survey to all agency contracting officer representatives (CORs), which followed up on our December 2021 audit report on the FTC’s COR program. Survey respondents identified concerns related to COR duties specific to expert witness service contracts, including the availability of relevant training and the scope of COR duties.

We conducted this performance audit to determine whether the FTC’s BC expert witness contracts are administered in accordance with federal requirements. Specifically, the audit assessed the sufficiency of resources and support available to CORs monitoring the FTC’s expert witness contracts, including the effectiveness of available training that supports COR monitoring of expert witness contracts.

What We Found

Currently, the FTC’s COR program meets the minimum federal requirements by stipulating that employees obtain a Federal Acquisition Certification-Contracting Officer’s Representatives (FAC-COR) certification to become a COR. Nevertheless, the audit found that (I) COR training is difficult to access and bears little relevance to expert witness contracts and (II) assessment of COR performance is vague and inconsistent.

What We Recommend

We recommend that the FTC Executive Director, in coordination with the Director of the Financial Management Office, develop

1. a strategy for establishing a formal training regimen addressing the specific processes entailed in acquiring, managing, and closing out expert witness contracts, and
2. a process that allows for CORs to receive recognition for and feedback on their COR duties.



Office of
Inspector
General

AUDIT
REPORT

*Audit of FTC
Resources and
Support for
Expert Witness
Contracting
Officer
Representatives*

May 12, 2023

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AUDIT RESULTS SUMMARY

We conducted this performance audit to determine whether the FTC's Bureau of Competition (BC) expert witness contracts¹ are administered in accordance with federal requirements. Specifically, the audit assessed the sufficiency of resources and support available to contracting officer representatives (CORs) monitoring the FTC's expert witness contracts, including the effectiveness of available training that supports COR monitoring of expert witness contracts.

Currently, the FTC's COR program meets the minimum federal requirements by stipulating that employees obtain a Federal Acquisition Certification-Contracting Officer's Representatives (FAC-COR) certification to become a COR.² Nevertheless, the audit found that (I) COR training is difficult to access and bears little relevance to expert witness contracts and (II) assessment of COR performance is vague and inconsistent.

The report contains two recommendations to strengthen the control environment around expert witness contract oversight and improve support for staff performing COR functions on expert witness contracts. In its written response to this report, FTC management concurred with both recommendations and described planned actions in response. The FTC response to our report is included in its entirety in appendix D.

¹ The majority of the FTC's expert witness contracts originate from BC.

² The FAC-COR Program requirements are governed by the OMB's Office of Federal Procurement Policy (OFPP) memorandum *Revisions to the Federal Acquisition Certification—Contracting Officer's Representatives (FAC-COR)*. As specified in the *FTC Administration Manual*, Chapter 2: Section 300—Acquisition, the FTC requires employees to obtain a FAC certification to be a COR. The FTC uses the Federal Acquisition Institute (FAI) certification process to certify FTC employees as CORs. There are two primary options for obtaining training for certification purposes: in-house training offered by the FTC's Human Capital Management Office (HCMO) and outside training via FAI's COR certification program.

WHY WE PERFORMED THIS AUDIT

Background

Expert witness contracts have been a “top risk” on the FTC’s risk register since 2017.³ A major component of the agency’s litigation costs, BC expert witness contracts will likely remain a significant concern for management in FY 2023. The complexity of BC cases often necessitates hiring expert witnesses at great expense. In past fiscal years, FTC’s litigation activity has required spending on expert witness costs that have exceeded available budgeted resources, which challenged the agency’s ability to pursue meritorious cases. For 4 of the past 5 fiscal years, spending on BC’s expert witness contracts has accounted for at least 16% of all FTC spending on contracts (see table 1, next page):

Table 1: FTC Spending on BC’s Expert Witness Contracts

Fiscal Year	Total Contracting Budget	Expert Witness Budget	Expert Witness Contracts’ Portion of Total Contracting Budget
2022	\$96,783,721	\$15,508,390	16%
2021	\$82,117,288	\$13,382,691	16%
2020	\$89,616,763	\$19,122,231	21%
2019	\$87,636,840	\$6,277,278	7%
2018	\$84,649,809	\$16,620,441	20%

Source: the FTC Financial Management Office

According to Federal Acquisition Regulation (the FAR), the type of contract used to procure expert services—time and materials (T&M) contracts—adds to their inherent risk. Federal agencies typically use T&M contracts, including labor hour (LH) contracts,⁴ when the exact work to be done is unpredictable. These contracts carry inherent risk to the government because contractors have little incentive to keep costs low.⁵ Therefore, the nature of the T&M contract vehicle adds to the importance of the COR

³ Correspondingly, the OIG has included the agency’s expert witness contract expenses in its *Top Management and Performance Challenges* reports since FY 2018.

⁴ LH contracts are considered T&M contracts, for which the contractor does not provide materials.

⁵ FAR 16.601(c)(1) (“A time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency”).

function. The complexity associated with FTC expert witness contracts further contributes to this risk.

On July 20, 2022, we issued a survey to all agency CORs,⁶ which followed up on our December 2, 2021, audit report (A-22-03) on the FTC's COR program.⁷ Survey respondents identified concerns related to COR duties specific to expert witness service contracts, including the availability of relevant training and the scope of COR duties. Survey respondents' insights informed our audit objectives.

Relevant Recommendations from Prior OIG Products

In December 2021, we issued the report *Audit of the Federal Trade Commission's COR Program*. The audit's objective was to determine whether the FTC's COR program was in compliance with federal requirements and FTC policies and procedures. Our audit revealed opportunities for management to clarify responsibilities within the COR program. Specifically, we concluded that enhancements to and reinforcement of policies and procedures would improve the program and help management coordinate efforts across multiple FTC bureaus and offices.

Our audit report included the following recommendations:

1. We recommended that the FTC Executive Director, in coordination with the Director of the Financial Management Office, update the FTC *Administrative Manual*, Chapter 2: Section 300—Acquisition, to reflect the current process of acquiring and managing FTC contracts.

Status of Finding: Open as of January 15, 2023

2. We recommended that the FTC Executive Director, in coordination with each FTC operating unit director, develop guidance on the oversight of COR activities and maintenance of COR files.

Status of Finding: Open as of January 15, 2023

In November 2019, we issued the report *Audit of Federal Trade Commission Expert Witness Services* (A-20-03). The performance audit's objective was to examine the extent to which expert witness contracts within BC are acquired with the prudent and economical use of FTC funds. We found that the FTC would benefit from an updated strategy for supporting matters requiring expert witness services. We also found that

⁶ [OIG Survey of FTC Contracting Officer's Representatives](#), FTC OIG, (Sept 23, 2022).

⁷ [Audit of the Federal Trade Commission's Contracting Officer's Representative Program](#), FTC OIG, Report No. A-22-03, (Dec 2, 2021).

contracts for expert witness services contained inconsistently documented considerations on in-house expertise.

Our audit report included the following recommendations:

1. We recommended that the Director of the Bureau of Economics, with the Human Capital Management Office, develop and maintain a strategy, updated at least annually, for considering internal expert witness service capacity on future matters.

Status of Finding: Closed

2. We recommended that the Director of BC implement requirements for documenting the processes and considerations involved with expert witness contracting decisions, to include considerations on the availability of in-house experts.

Status of Finding: Closed

FINDINGS AND RECOMMENDATIONS

I. COR Training Is Difficult to Access and Bears Little Relevance to Expert Witness Contracts

The training and related resources available to CORs who oversee expert witness contracts—who are typically BC attorneys—(a) can be difficult to access and (b) bear little relevance their specific contract work.

As previously discussed, the FTC requires employees to obtain a FAC-COR certification to become a COR. This certification necessitates that an employee take a minimum of 8 continuous learning points (CLPs) worth of COR level 1 classes every 2 years. In addition to the FAC-COR requirements, federal government agencies are expected to prioritize the most relevant training for employees.⁸

The FTC’s expert witness CORs seeking guidance can access contracting officers (COs), more experienced peers, and a variety of training and related resources online: specifically, at HCMO’s training and development web page, on a few expert-witness-contract-related resources on the Financial Management Office (FMO) Acquisitions Division’s Expert Witness Contracts page, and in BC *Handbook*, Section 13, “Experts.”

Beyond that, the FTC’s online training resources present users with challenges, due to the following:

- A. Up-to-date resources for earning the minimum level 1 CLPs are difficult to access.* When users access the FTC HCMO training resources for COR training, they are provided a dead link to the Federal Acquisition Institute (FAI) Training Applications System (FAITAS), run by the U.S. military for all basic federal COR training requirements. Users who follow up by searching FAI.gov for “COR” can register through FAI Cornerstone OnDemand, where they will find two courses listed at the Defense Acquisition University, each providing 2 CLPs. The site provides CORs two additional level 1 classes, each providing 1 CLP. In total, the limited COR training available—starting with HCMO’s online guidance does not enable CORs to earn the 8 CLPs required to oversee expert witness contracts.

Users turning to the Acquisition Division’s online COR Resources for “Training” will likewise find limited, outdated help. None of the 11 items listed under “Training” links to CLP offerings; while some of the information offered is current, much of it is outdated. For

⁸ GAO-14-704G, *Standards for Internal Control in the Federal Government* (i.e., the *Green Book*), 4.05, emphasizes that training “[e]nables individuals to develop competencies appropriate for key roles, [as well as] reinforce[s] standards of conduct,” and should be “tailor[ed] . . . based on the needs of the role.”

example: a PowerPoint slide deck covering a 2018 breach of the federal government-wide vendor database, System for Award Management (SAM), and its impact contains some information that is still current (e.g., on COR review of invoices, the treatment of contractor personnel under services contracts, and year-end preparation). More than 5 years later, other information on the SAM breach appears outdated.⁹ Similarly, users will find that more than half of the remaining 11 resources contain outdated references—to broken external links and to outdated invoice processes and staff rosters.

- B. *Trainings bear limited relevance to CORs working specifically with expert witness contracts.* Among the Acquisition Division's 11 online COR resources under "Training," only 1 is a slide deck providing an overview of obtaining expert witness contracts. This high-level presentation, which is not a more detailed CLP offering, contains some 2016 references (e.g., to the CLM system) that are no longer current. More specifically relevant to the experience of expert witness CORs, the deck contains only one slide on contract types, providing only basic definitions of the firm fixed price, T&M, and LH contracts. Missing are more detailed references to how expert witness CORs must navigate the challenges, including risks of escalating costs, inherent in managing T&M and LH contracts. Likewise, the Acquisition Division's expert witness contract-related online resources include a "roadshow presentation"—another slide deck, of similar length, that provides a process overview—and a handful of other tools that capture only general details about this particular acquisition process.

As a result, CORs who are neither well-trained nor experienced on the specific requirements of expert witness contracts are at risk of finding themselves in a difficult position. Beyond needing the competencies to perform these aspects of their job,¹⁰ the FTC's CORs sign representative designations—which cite the Federal Acquisition Regulation (FAR)—acknowledging specific responsibilities. While these designations inform CORs that they do not have the power to obligate or modify government payment of money, they do inform CORs that they, as individuals, can be

⁹ Expert witness CORs wishing to learn more about using SAM may consult the Acquisition Division's Expert Witness Contracts page, which provides guidance limited to instructions on how to register with the database.

¹⁰ According to FAR 1.602-2(d)(3), a COR "[s]hall be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with agency procedures."

held personally liable for unauthorized actions in their work with the contractor and CO.¹¹

In summary, there exists no formal, detailed training mechanism at the FTC to acclimate CORs, at any experience level, to the high-risk contract environment entailed with acquiring the services of and managing expert witnesses. In our interviews with expert witness CORs, the more experienced CORs tended to report that the FTC's general COR training offerings were relevant, while newer CORs tended to report that the trainings were neither specific nor useful enough to help them with expert witness contracts. As a result, several CORs whom we interviewed reported issues—about contract obligations and deliverables, specific aspects of BC work, sharing best practices, dealing with continuing resolutions, FAR regulations, the SAM process, even the overall contract process—for which finer details remain unaddressed and questions unanswered by training.

With veteran FTC staff and management in BC and FMO available to answer questions on a case-by-case basis, individual expert witness CORs have some help available. However, without formal training, the risk grows that these highly complicated, increasingly expensive contracts will not be managed consistently, efficiently, and effectively.

Notably, two audit recommendations from our December 2021 COR audit—one, to update the FTC *Administrative Manual* chapter and section related to acquisition to reflect current processes of acquiring and managing contracts; the other, to coordinate across all agency operating units to develop guidance on the oversight of COR activities and maintenance of files—remain open as of March 2023. Both recommendations point the way to establishing more process and structure to support CORs as they train in the effective and expedient procurement of expert witnesses.

RECOMMENDATION

1. We recommend that the FTC Executive Director, in coordination with the Director of the Financial Management Office, develop a strategy for establishing a formal training regimen addressing the specific processes entailed in acquiring, managing, and closing out expert witness contracts.

¹¹ According to FAR 1.602-2, “[c]ontracting officers shall . . . (d) Designate and authorize, in writing and in accordance with agency procedures, a contracting officer’s representative (COR) on all contracts and orders other than those that are firm-fixed price, and for firm-fixed-price contracts and orders as appropriate, unless the contracting officer retains and executes the COR duties.” FAR 1.602-2 (7)(v) further states that the COR’s designation and authorization states “that the COR may be personally liable for unauthorized acts.”

II. *Assessment of COR Performance Is Vague and Inconsistent*

Given that the agency's expert witness contracts account for 15–20% of its total contracting budget for nearly all of the past 5 fiscal years, placing them in the highest slot on the agency's risk register since 2017, the FTC has significant capital at stake in the performance of its expert witness CORs.

Adding to this risk, the contracting process to obtain an expert witness is especially complicated—these contracts are some of the agency's most complex and specific, and the time window to issue solicitations for these contracts is markedly shorter than for the agency's other contracts.¹² Compounded with this complexity, BC attorneys serving as expert witness CORs recounted how any delay in the process to award an expert witness contract can cause significant negative impacts on litigation. One BC expert witness COR articulated it vividly:

In some cases, every second counts. You want to have your expert on board before you file a complaint. Every second you lose, that's not great. It affects time down the line. If we don't have the money to pay a witness for travel expenses, say, that's a huge problem. Deposition prep. It can really affect things.

As such, recognizing COR performance of these duties—or keeping CORs accountable, as necessary, through clear, meaningful performance measures—should be a key internal control strategy for agency management. Our audit found this management control largely missing from the COR program.

When we interviewed expert witness CORs for this audit—in part, to ask whether they received appraisals or any other kind of formal feedback on the duties they performed—the responses varied widely. Overall, their responses reflected inconsistency and vagueness.

One COR answered that no managers monitor his or her COR work; they are only aware of it. This COR's sense of management's perspective is that

we attorneys are not contracting experts and so, simply, people just do it—and not [as] part of our real job responsibilities—so we're not assessed for it. . . . [I]t's definitely not part of the criteria [for our performance evaluation].

One attorney shared that COR duties are certainly recognized as accomplishments when he or she mentions them upon submitting input for performance review, but they are not included as part of an evaluation's critical element. Another attorney responded that, in fact, his or her annual

¹² Whereas the FMO's Acquisition Division has established a range of longer procurement action lead time standards for other contract types—from 23–38 days for task orders to 180–365 days for a new competed contract on the open market—expert witness contracts receive only 10–15 days after the Acquisitions Division has received a complete acquisition package from BC.

performance appraisal did mention COR duties—but only to acknowledge that he or she “was willing to step into the role when asked, where others might not choose to.” These acknowledgments, as expressions of gratitude for performing COR duties (rather than assessing the performance, recognizing strengths, or highlighting areas for improvement), arose from more than one response we received.

However, the interview responses overall reflected an absence of constructive feedback leading to improved performance. This appears to be a direct result of the absence of a formal, consistent appraisal of FTC CORs’ performance.

A random sample of expert witness CORs confirmed some feedback from management and peers—a sense of urgency about short contract time spans from attorney teammates, technical questions answered by Acquisitions Division staff, appreciation from supervisors who knew from experience just how hard CORs work—but no feedback based on formally established expectations of competence or standards of conduct. The established standard for federal management control activity includes “establish[ed] expectations of competence for key roles” (*Green Book*, 4.02), as well as “guidance on the individual’s performance based on standards of conduct and expectations of competence” (*Green Book*, 4.05).¹³ Considering the numerous responsibilities attached to a COR designation,¹⁴ some level of performance assessment is warranted.

RECOMMENDATION

2. We recommend that the FTC Executive Director, in coordination with the Director of the Financial Management Office, develop a process that allows for CORs to receive recognition for and feedback on their COR duties.

¹³ GAO’s *Green Book* advises agency management to provide guidance on individuals’ performance based on standards of conduct and expectations of competence. This ensures accountability for performance that supports day-to-day operations of the entity. The employee appraisal should support a data-driven approach to decisions on resource usage as well as personnel matters. Office of Management and Budget (OMB) Circular A-11, *Preparation, Submission, and Execution of the Budget*, further underscores agency manager and employee accountability, as measured by performance goals and indicators, which “have been validated through research to be well correlated with ultimate outcomes.” See OMB Circular A-11, Part 6, “Strategic Plans, Annual Performance Plans, Performance Reviews, and Annual Program Performance Reports,” Section 200, “Overview of the Federal Performance Framework,” 200.5 at https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/a11_current_year/s200.pdf.

¹⁴ FAR 1.602-2 “Responsibilities.”

SUMMARY OF AGENCY RESPONSE AND OIG COMMENTS

In its written response to this report, FTC management concurred with both recommendations and described planned actions in response. The FTC response to our report is included in its entirety in appendix D.

APPENDIX A: OBJECTIVE, SCOPE, AND METHODOLOGY

We conducted a performance audit to determine whether the FTC's BC expert witness contracts are administrated in accordance with federal requirements. Specifically, the audit assessed

- the sufficiency of resources and support available to CORs monitoring the FTC's expert witness contracts, and
- the effectiveness of available training that supports COR monitoring of expert witness contracts.

To prepare for our audit, we researched and reviewed pertinent authorities, including federal laws, agency guidance, policies, and procedures. These included OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Controls*; the GAO *Standards for Internal Control in the Federal Government*; internal FTC policies; and policy memoranda. We also reviewed prior audit reports issued by other OIGs and GAO relevant to the federal contracting of expert witnesses and COR programs. In addition, we conducted interviews with FTC officials from BC and FMO on the oversight of expert witness contracts. In planning and performing our audit, we identified the internal control components germane to our audit objective.

As part of our audit, we selected a judgmental sample of BC CORs with whom we conducted interviews on the oversight of expert witness contracts and support available for CORs. We also reviewed the justifications for other than full and open competition (JOFOCs) on a random sample of expert witness contracts, comparing the FTC's JOFOCs against the requirements of the FAR. Further, the audit analyzed the type of COR training available to BC staff. To assess the reliability of the contract data, we compared FY 2022 contract obligations provided by FMO against the obligation amounts included USAspending.gov.

We performed the audit work remotely from October 2022 through February 2023. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We used the following criteria in the performance of our audit:

- *FTC Administration Manual*, Chapter 2: Section 300—Acquisition
- FAR Title 48
- FTC Bureau of Competition BC Handbook
- *GAO Standards for Internal Control in the Federal Government*
- OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*
- OFPP memoranda

APPENDIX B: BACKGROUND

Contracting Officer Representatives and Contracting Officers

A federal contracting officer representative (COR) is an employee representative appointed by the contracting officer (CO) to monitor and manage a specific federal contract. The role of the COR is to ensure that (a) the contractor complies with all terms and conditions of the contract and (b) the government receives the goods or services specified in the contract. The COR can also provide recommendations to the CO regarding contract modifications, extensions, or termination.

The COR has an important role in the administration and technical oversight of contracts, typically monitoring and managing contract operation and performance. CORs support FTC litigation matters by ensuring that contractors are delivering high-quality service on time. Additionally, they provide critical government oversight, reviewing and accepting contract deliverables, as well as ensuring contract payments are both properly and timely made.

As the main point of contact between contractors and the government, the COR also monitors the contractor's compliance with all applicable laws, regulations, and standards, and provides written reports to the CO on the contractor's performance.

Time and Material Contracts

The FTC's expert witness contracts are awarded as time and material (T&M) contracts—which are used when it is not possible to estimate accurately the extent or duration of the work or its costs. The contract defines “direct materials” as those used in the end product or directly consumed in connection to it. “Hourly rate” refers to the payment rate for labor performed by the contractor or its affiliates. “Materials” are defined as direct materials, subcontracts for supplies, other direct costs, and applicable indirect costs.

The FTC's Expert Witness Contracts

The FTC enforces laws that prohibit business practices that are anticompetitive, deceptive, or unfair to consumers, seeking to do so without impeding legitimate business activity. As a legal and law enforcement agency tasked with enforcing U.S. antitrust laws, the FTC often requires the services of expert witnesses (who may be required to be deposed and testify) in support of cases either approaching or in litigation in federal or administrative proceedings.

An FTC COR is typically responsible for monitoring the contractor's technical progress, including assessing performance and recommending to

the CO changes in the scope of work, contract/order schedules and/or specifications to meet changes in requirement. The COR of expert witness contracts also may advise on technical matters within the scope of work, perform technical evaluations, inspections, and acceptances, as required by the contract/order.

A typical expert witness services contract often includes consulting and testifying phases. The consulting phase involves reviewing and analyzing evidence and materials from the FTC's investigation, which could include economic, statistical, and industry literature. The expert will provide detailed summaries of the expert's analysis and any preliminary opinions, as well as draft expert reports of findings and conclusions. During the testifying phase, the expert will prepare a report of findings and conclusions based upon the study and analysis of evidence. An expert also may draft rebuttal expert reports, prepare for and sit for depositions, and testify at hearings and trials.

APPENDIX C: ACRONYMS AND ABBREVIATIONS

BC	FTC Bureau of Competition
CLP	continuous learning points
CO	contracting officer
COR	contracting officer's representative
FAI	Federal Acquisition Institute
FAR	Federal Acquisition Regulation
FMO	FTC Financial Management Office
FTC	Federal Trade Commission
FY	fiscal year
HCMO	FTC Human Capital Management Office
JOFOC	justification for other than full and open competition
LH	labor hour contract
OFFP	Office of Federal Procurement Policy
OIG	FTC Office of Inspector General
SAM	System for Award Management
T&M	time and material contract

APPENDIX D: FTC MANAGEMENT RESPONSE



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Financial Management Office

Date: May 2, 2023
To: Andrew Katsaros, Inspector General
Thru: David Robbins, Executive Director
From: Randy Salzer, Acting Chief Financial Officer
Subject: Management's Response to Draft Report on Audit of the Federal Trade Commission Resources and Support for Expert Witness Contracting Officer Representatives (COR)

DAVID ROBBINS
Digitally signed by DAVID ROBBINS
Date: 2023.05.02 10:06:11
-0400

RANDALL SALZER
Digitally signed by RANDALL SALZER
Date: 2023.05.02
08:20:34 -0400

The Federal Trade Commission (FTC) appreciates the Office of the Inspector General's (OIG) work to identify potential risks and improvement areas for the FTC.

The FTC concurs with the recommendations and is committed to improving COR support for expert witness contracts. The estimated completion dates will be established within 60 days of issuing the Final OIG Audit Report regarding this matter. In response, we propose the following actions.

OIG Recommendation 1: We recommend that the Executive Director in coordination with the Director of the Financial Management Office develop a strategy for establishing formal training regimen addressing the specific processes entailed in acquiring, managing, and closing out expert witness contracts.

Planned Action: The Executive Director, together with staff in the Acquisition Office, will update COR guidance and prepare related training outlining roles and responsibilities of CORs for all contracts. While COR responsibilities are consistent regardless of contract type, Acquisitions will develop helpful tip sheets and relevant guidance that would better support expert witness contracts. The Acquisition Office will also work with the Bureau of Competition to refresh relevant COR training specific to expert witness contracts.

OIG Recommendation 2: We recommend that the Executive Director in coordination with the Director of Financial Management Office develop a process that allows for CORs to receive recognition for and feedback on their COR duties.

Planned Action: The Executive Director, together with staff in the Acquisition Office and the Human Capital Management Office, will assess COR performance plans already including COR duties and assess additional opportunities for COR performance recognition in line with federal best practices applied within the profession.