Consumer Financial Protection Bureau Independent Audit of Selected Operations and Budget

November 5, 2013

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Table of Contents

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EXECUTIVE SUMMARY

November 5, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Dear Mr. Cordray:

This report presents the results of our work conducted to address the performance audit objectives relative to the Consumer Financial Protection Bureau (hereinafter referred to as "CFPB" or "Bureau"). Our work was performed during the period June 7, 2013 to November 5, 2013, and our results, reported herein, are as of November 5, 2013.

We conducted this performance audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

As specified by CFPB, our audit objectives were to evaluate (1) the CFPB intra-agency and inter-agency coordination process for the CFPB student loan initiatives relative to leading practices; (2) the CFPB contracting officer's representative (COR) function in relation to CFPB policies and the Federal Acquisition Regulation (FAR); (3) the CFPB budget process relative to the CFPB policies and procedures established over budget formulation, execution, and monitoring; and (4) the corrective actions taken to resolve the findings and recommendations included in CFPB's *2012 Independent Audit of Operations and Budget.*[1]

[1] "2012 Independent Audit of Operations and Budget", ASR Analytics, Inc., November 13, 2012

As our report further describes, we identified the following findings as a result of the work performed to meet our audit objectives:

A. Controls over the COR function need to be strengthened; and
B. Certain controls over budget execution and monitoring need to be strengthened.

We recommend that CFPB management:

1. Reinforce detailed instructions to the COR Pool related to contract administrative file maintenance;
2. Increase the frequency of reviews of contract administration files maintained by CORs;
3. Perform a gap internal control analysis of the design of its preventive and detective controls over the budget execution process including documenting the rationale for its policy for only reviewing line items that have an amount available over $250,000 from the Open Obligations report for accrual purposes;
4. Analyze its undelivered order (UDO) balance to identify stale UDOs and potential further actions needed based on the analysis of:
    - Open obligations with no invoices since contract inception; and
    - Open obligations with other federal agencies with no accruals or invoices since contract inception;
5. Perform the de-obligation process more than once a year; and
6. Clearly and explicitly communicate specific responsibilities to monitor the administration of inter-agency agreements to assigned personnel.

Sincerely,

KPMG LLP

BACKGROUND

The Consumer Financial Protection Bureau was established on July 21, 2010 under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law No. 111-203 (Dodd-Frank Act) as an independent bureau within the Federal Reserve System. The Bureau is an Executive agency as defined in Section 105 of Title 5, United States Code with a mission to make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards or using any number of other consumer financial products. To accomplish its mission, the CFPB seeks to educate consumers, enforce Federal consumer financial laws, and gather and analyze information to better understand consumers, financial service providers and consumer financial markets.

The CFPB has a diverse mandate and roles that were previously covered by seven different agencies responsible for rulemaking, supervision and enforcement relating to consumer financial protection. The agencies which previously administered statutes transferred to the CFPB are the Board of Governors of the Federal Reserve System (Board of Governors); Office of the Comptroller of the Currency (OCC); Office of Thrift Supervision (OTS); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Federal Trade Commission (FTC) and the Department of Housing and Urban Development (HUD).

To accomplish its mission, the CFPB developed and is continuing to build a workforce with a broad and diverse depth of public and private industry experience that is spread across the country with its headquarters in Washington, D.C. and regional offices in Chicago, New York City and San Francisco. The CFPB is organized into six primary Divisions:

- *Consumer Education and Engagement Division* – Responsible for providing, through a variety of initiatives and methods, information to consumers that will allow them to make decisions that are best for them.
- *Supervision, Enforcement, Fair Lending and Equal Opportunity Division* – Responsible for ensuring compliance with Federal consumer financial laws by supervising market participants and bringing enforcement actions when appropriate.
- *Research, Markets and Regulations Division* – Responsible for understanding consumer financial markets and consumer behavior, for evaluating whether there is a need for regulation and for determining the costs and benefits of potential or existing regulations.
- *Legal Division* – Responsible for the CFPB's compliance with all applicable laws and provides advice to the Director and the Bureau's divisions.

- *External Affairs Division* – Responsible for managing the CFPB's relationships with external stakeholders and for ensuring that the Bureau maintains robust dialogue with interested stakeholders to promote understanding, transparency, and accountability.
- *Operations Division* – Responsible for building and sustaining the CFPB's operational infrastructure to support the entire organization.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

As specified by the CFPB, the objectives of our performance audit were to evaluate (1) CFPB's intra-agency and inter-agency coordination process for student loan initiatives relative to leading practices; (2) CFPB's contracting officer's representative (COR) function in relation to CFPB's policies and the Federal Acquisition Regulation (FAR); (3) CFPB's budget process relative to the policies and procedures CFPB established over budget formulation, execution and monitoring and (4) the corrective actions taken to resolve the findings and recommendations included in CFPB's *2012 Independent Audit of Operations and Budget.*

Scope

The scope of each performance audit objective follows:

- Evaluated the intra-agency and inter-agency coordination process related to the student loans initiatives relative to leading practices for the period October 1, 2012 through June 30, 2013.
- Evaluated the COR function related to contract activities as of June 30, 2013.
- Evaluated CFPB's budget process by comparing actual expenditures to the approved budget for the period ended June 30, 2013 and testing for compliance with CFPB policies and procedures over budget formulation, execution, monitoring and the Dodd-Frank Act.
- Evaluated the CFPB's corrective actions taken to resolve the five open findings and recommendations included in the report for *2012 Independent Audit of Operations and Budget*.

We conducted our performance audit in accordance with the performance audit standards in *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 recommendations based on our audit objectives. Our responsibility is to provide findings and recommendations based on the results of our audit. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

Methodology

The methodology followed to address the audit objectives included:

- Interviewed key CFPB staff;
- Selected samples for testing, where appropriate;
- Researched leading practices related to each audit objective for comparison to CFPB policies and procedures;
- Reviewed supporting documentation relating to CFPB's policies and procedures;
- Reviewed documentation to support results of our testwork over COR contract administration; and
- Reviewed budget documents to evaluate the budget formulation, execution and monitoring process.

Keyed to our four audit objectives, further details of our audit methodology follow:

A. Evaluation of CFPB Intra-Agency and Inter-Agency Coordination Initiatives

1. Interviewed CFPB personnel regarding the goals, plans, and methodologies used to coordinate and carry out its student loan initiatives regarding private student loans and student loans for military service members.
2. Researched leading practices and regulations for intra-agency and inter-agency collaboration. Documents reviewed included:
    - *"Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms,"* Government Accountability Office (GAO)-12-1022 September 27, 2012
    - *"Dodd-Frank Act Regulations: Implementation Could Benefit from Additional Analyses and Coordination,"* GAO-12-151, November 10, 2011
    - *"Managing for Results: GPRA Modernization Act Implementation Provides Important Opportunities to Address Government Challenges,"* GAO-11-617T, May 10, 2011
    - *"Homeland Security: Opportunities Exist to Enhance Collaboration at 24/7 Operations Centers Staffed by Multiple DHS Agencies,"* GAO-07-89, October 20, 2006
    - *"Results Oriented Government: Practices That Can Help Enhance and Sustain Collaboration Among Federal Agencies,"* GAO-06-15, October 21, 2005
    - *"Best Practices: DOD Teaming Practices Not Achieving Potential Results,"* GAO-01-510, April 10, 2001
    - Memorandum of Understanding (MOU) Between the U.S. Securities and Exchange Commission and the U.S. Commodities Futures Trading Commission

- Administrative Conference of the United States[2]

3. Summarized the results of the Office of Students collaborative efforts and compared these to the leading practices.

B. CFPB's Contracting Officer's Representative Function

4. Interviewed CFPB personnel regarding the policies and procedures pertaining to the procurement actions of the COR and the training and certification practices of the COR.
5. Obtained an understanding of Office of Management and Budget (OMB) and FAR requirements and compared these to the CFPB guidance, policies and procedures.
6. Selected a sample of COR contract files to evaluate if the actions taken in the COR designation process followed CFPB policy.
7. Reviewed COR contract files to evaluate if the actions taken during the administration of the contracts followed CFPB policy.
8. Determined each COR's designated certification level, the number of years of experience for each COR and the number of continuous learning points (CLPs)[3] each COR had accumulated to be designated their respective COR level.
9. Interviewed selected COR's and the related supervisors to obtain an understanding of how COR performance is measured.
10. Selected and reviewed a sample of invoices to determine if the COR correctly reviewed each one for mathematical accuracy, quantities and quality of work done, and timing of review and payment.

C. CFPB's Budget

11. Obtained the policies and procedures for budget formulation.
12. Obtained an understanding of the budget formulation process through discussions with management of CFPB's Office of Chief Financial Officer (OCFO) and select CFPB offices.
13. Compared the CFPB budget formulation process to OMB Circular A-ll "Preparation, Submission and Execution of the Budget" as an indicator of leading practice.

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[2] The Administrative Conference of the United States is an independent U.S. agency established to promote improvements in the efficiency, adequacy and fairness of the procedures by which federal agencies conduct regulatory programs, administer grants and benefits and perform related governmental functions.

[3] Continuous Learning Points are the continuing education credits created by the United States Department of Defense and adopted by the Office of Federal Procurement Policy to support the certification and training around Federal acquisition. CLPs are equal to one hour of continuing education coursework relatable to Federal Acquisition Certification guidelines.

14. Obtained and reviewed documents to support that the fiscal year 2013 budget was discussed with the program offices, was reviewed and approved by CFPB's director and was communicated to the CFPB employees.
15. Obtained and reviewed documents used to support the budget formulation process.
16. Obtained the policies and procedures for budget monitoring and execution.
17. Obtained an understanding of the budget execution and monitoring process through discussions with management of OCFO and select CFPB offices.
18. Selected a sample of undelivered orders (UDO) as of June 30, 2013 to test the budget execution process.
19. Reviewed CFPB's support for its mid-year budget review.
20. Obtained and reviewed the user controls noted in the Bureau of Public Debt Service Organization Control report under Statement on Standards for Attestation (SSAE) No. 16: *Report on the Bureau of the Public Debt Administrative Resource Center's Description of its Financial Management Services and the Suitability of the Design and Operating Effectiveness of its Controls for the Period July 1, 2011 to June 30, 2012*, issued by KPMG LLP.

D. Corrective Actions taken to resolve the 2012 audit report findings and recommendations

21. Reviewed the five findings and recommendations included in the *2012 Independent Audit of Operations and Budget* defined as either a risk of deficiency or non-compliance or a deficiency in internal control and the associated recommendations.
22. Obtained and reviewed the corrective action plan (CAP) developed by CFPB for the five findings mentioned above.
23. Reviewed documentation supporting the CFPB actions specified in the CAP and how the actions taken address the findings.
24. Obtained management's approach for the disposition of the 23 performance improvement observations identified in the above 2012 performance audit report.

Audit Process

- An entrance meeting was held on June 7, 2013 with KPMG and CFPB in attendance.
- The field work took place from June 7, 2013 through October 3, 2013.
- A meeting was held on September 4, 2013 with CFPB and KPMG in attendance to discuss the initial findings and recommendations. Written Notice of Findings and Recommendations (NFRs) were provided to CFPB for management review and comments.

- Additional meetings were held on September 10, 2013 and September 11, 2013 with CFPB to discuss management's comments related to the initial findings and recommendations.
- Subsequent meetings and communications were held between October 3, 2013 and November 4, 2013 with KPMG and CFPB personnel to discuss the draft report and next steps related to the final reporting process.

RESULTS

We identified the following findings as a result of the work performed to meet our audit objectives:

A. Controls over the COR function need to be strengthened; and
B. Certain controls over budget execution and monitoring need to be strengthened.

These are discussed in further detail below.

Overview of Intra- and Inter-Agency Initiatives

Federal agencies use a variety of mechanisms to implement intra- and inter-agency collaborative efforts. The CFPB works collaboratively with multiple federal agencies through interagency agreements, memoranda of understanding and other ad hoc coordination efforts. Interagency collaboration has been an integral part of CFPB's Student Loan Initiatives.

Within the Consumer Education and Engagement Division, the Office for Students is responsible for developing, implementing and evaluating CFPB's programs, policies and systems to address the needs of students in respect to financial products and deceptive practices. The Office is led by the Student Loan Ombudsman whose mission includes examining complaints submitted to CFPB from student loan consumers and to make recommendations to Congress and other federal agencies. CFPB works closely with the U.S. Department of Education related to federal student loans. As part of its mission to promote financial education to the public, CFPB initiated its *Know Before You Owe* student loans project as a collaborative effort with the U.S. Department of Education. The project aimed at creating a financial aid shopping sheet which colleges and universities could use to help students better understand the type and amount of grants for which they qualify.

Initially launched as a pilot in October 2011, the finalized financial aid shopping sheet was released in November 2012, and as of June 6, 2013, CFPB reported that almost 750 schools have adopted the financial aid shopping sheet. CFPB identified its need for a formal approach to conducting inter-agency and intra-agency coordination to accomplish its mission objectives.

KPMG reviewed the CFPB efforts toward inter-agency coordination surrounding the Student Loans Initiative and identified the following steps for collaboration recommended by GAO[4] in its work on leading practices that CFPB may consider as it develops its formal policy and procedures for inter-agency and intra-agency coordination. These steps include:

- **Defining and articulating common goals and outcomes**[5] – A common theme throughout our research is the need to define and articulate common goals and outcomes[6], both for the short and long term from the outset of any collaborative project. Goals should be developed in concert with management and the collaborating teams[7].
- **Defining roles and responsibilities for each department or agency**[8] – Defining roles and responsibilities for each department/division or agency involved in the collaborative project, as well as establishing mutually reinforcing or joint strategies[9] will help to cut down on overlap of work and alleviate misunderstandings of each department/division or agency's role. These roles, responsibilities, and strategies could be codified through policies and memorandum of understandings (MOUs)[10].
- **Developing mechanisms to monitor, evaluate, and report results**[11] – This is a necessary step to ensure that the collaborating teams are on track and that the defined and agreed goals and outcomes are actually being met. MOUs could include specific progress metrics and sunset provisions to enhance the collaboration process.[12]
- **Reinforcing individual accountability for collaborative efforts through performance management**[13] – As suggested by the GAO,[14] agencies must link personal accountability to collaboration by adding a collaboration-related competency of performance standard against which performance can be evaluated.
- **Establishing compatible policies, procedures, and other means to operate across agency boundaries**[15] – Developing common terminology and compatible policies and procedures and

[4] GAO-12-1022
[5] GAO-12-1022
[6] GAO-07-89, page 25; GAO-01-501-DOD, page 6; GAO-11-617T-GPRA. page 3
[7] GAO-01-510-DOD, page 9
[8] GAO-12-1022
[9] GAO-07-89, page 25; GAO-12-1022, page 15
[10] GAO-12-1022, page 22
[11] GAO-12-1022
[12] Administrative Conference of the U.S.
[13] GAO-12-1022
[14] GAO-12-1022, page 16
[15] GAO-12-1022 page 14; GAO-07-89, page 29

fostering open lines of communication between agencies and teams can help bridge organizational cultures. These measures in turn can help build trust and foster communication that then facilitates collaboration[16].

- **Identifying and addressing staff needs by leveraging resources[17]** – As noted by GAO, collaborating agencies bring different levels of resources and capacities to the effort. By assessing their relative strengths and limitations, collaborating agencies can look for opportunities to address resource needs by leveraging each others' resources, thus obtaining additional benefits that would not be available if they were working separately.[18]
- **Documenting goals and joint strategies[19]** – Goals and joint strategies must be documented. External and internal MOUs and other inter-agency operating plans are often used to document common organizational goals and how department/division or agencies will work together.[20]

Overview of Contracting Officer's Representative Function

CFPB's Office of Procurement has a stated mission is to serve as a steward of acquisition excellence among government agencies by reinventing processes to take full advantage of technology, transparency, open communications and best practices. To accomplish this mission, the Senior Procurement Executive and staff have built a procurement program that includes an early focus on contract administration and to structure a robust, highly-functional COR program. CORs are chosen strategically from each Division to ensure contract management coverage across all disciplines and represent functional experts in their field. The Office of Procurement provides performance goal language to COR supervisors to encourage recognition of these important duties.[21] The COs and the CORs work together with contractors to accomplish the strategic goals of CFPB.

CFPB Contracting Officers (CO) designate specific administrative responsibilities to CORs including contract monitoring and approval of invoices. CORs are to ensure that contractors meet the commitments of their contracts. CORs are often the first to recognize when a program or contract is under-performing, and they are increasingly being asked to manage high-value, complex contracts that involve varying degrees of risk. To ensure that CORs are trained and developed appropriately, the Office of Federal Procurement Policy (OFPP) in OMB issued a memorandum on September 6, 2011, titled "*Revisions to the Federal Acquisition Certification for Contracting Officer's Representative (FAC-COR)*" which

[16] GAO-12-1022 page 14
[17] GAO-12-1022 pages 16-20
[18] GAO-06-15, page 16
[19] GAO-12-1022 page 25
[20] GAO-07-89, page 26
[21] *"Building from the Ground Up: The Best of Contract Administration"*, NIGP Forum, August 24-28, 2013

replaces OFPP’s Federal Acquisition Certification for Contracting Officer Technical Representatives (FAC-COTR) originally issued in November 2007. The revised program is a three-tiered certification program that institutes risk-based competency requirements for CORs, with level III being the highest. The CFPB has adopted these practices by establishing policies and procedures for designating CORs consistent with OFPP’s three- tiered system.

The CFPB categorized its CORs into the three levels of the FAC-COR certification. As of January 2013, the CFPB had a total of 91 CORs of which 48, 42, and 1 were designated levels I, II, and III, respectively. Further, approximately 78% of CFPB’s CORs have less than 2 years of experience, 15% have 2-5 years experience and 7% have greater than 5 years experience. As a result, CFPB management has taken a number of steps to train and develop its cadre of CORs, including one-hour monthly round table meetings with CORs, COs and other procurement staff where topics are presented on contract administration and COR duties. Management communicates through a quarterly newsletter distributed to update staff on recent contract awards; how the Procurement Division is performing, contract performance summaries for service contracts valued $150,000 or more and round table meeting notes. In addition, the CFPB has implemented the use of the Federal Acquisition Institute Training Application System (FAITAS) to monitor training and certification compliance. CFPB has made a conscious decision to focus its efforts on post-award management by regularly reviewing contractors’ performance on quality of service, business relations, timeliness of performance and cost control for all service contracts over $150,000.

As discussed later in the *Findings, Recommendations, and Auditee Responses* section of this report under Finding A, we identified the need for strengthened controls over the maintenance of COR contract administration files.

Overview of Budget Process

Pursuant to the Dodd-Frank Act, the CFPB is funded principally by transfers from the Board of Governors of the Federal Reserve System (“Board”) up to a limit set forth in Dodd-Frank Act. In addition, pursuant the Dodd-Frank Act, the CFPB is also authorized to collect and retain for specified purpose civil penalties collected from any person in any judicial or administrative action under federal consumer financial law. The CFPB generally is authorized to use civil penalty funds for payments to victims of activities for which civil penalties have been imposed, but may also use the funds for purposes of consumer education and financial literacy programs under certain circumstances. As published in the FY 13 Budget Justification, the CFPB annual funding consisted of approximately $356 million and $448 million, for fiscal years 2012 and 2013, respectively. The CFPB budget process consists of formulation, including approval and submission; execution; and monitoring, including reporting.

The annual budget formulation process begins approximately 18 months before the beginning of the fiscal year in which the budget will be executed. This is a collaborative effort between the Office of the Chief Financial Officer (OCFO) and CFPB program divisions. To facilitate a standardized and consistent budget formulation process, the OCFO has developed policies and procedures, including templates for gathering relevant data, to allow the program division to support the amounts requested and link to the CFPB goals set by the Director.

The CFPB's Operations Division is responsible for coordinating activities for budget formulation. Working in collaboration with other CFPB divisions, the OCFO has primary responsibility for developing the budget, including staffing estimates, consistent with statutory requirements, performance goals and CFPB priorities. The CFPB Director has final approval authority over the budget. Once the annual budget is approved by the Director, it is distributed internally, communicated to OMB and posted on the CFPB website.

The budget execution process begins when the CFPB receives the transfers of funds from the Board of Governors of the Federal Reserve System. The CFPB and the Board have entered into an inter-agency agreement for the continued funding of the operations of the CFPB set forth in Section 1017(b) of the Dodd-Frank Act. Under such agreement, the Board will transfer funds quarterly to the CFPB when the Director notifies the Board of the amounts needed.

To execute its budget, CFPB exercises administrative control of funds through several measures. A financial plan is developed for each division and distributed at the beginning of each fiscal year. Within the financial plan, each division is allocated a target position headcount and personnel and non-personnel funding for the fiscal year. Divisions are expected to adhere to their financial plan allocations and to work collaboratively with the OCFO to request any additional funding and/or staffing if needed throughout the year. The OCFO has established policies and procedures for the approvals of requisitions and commitments related to CFPB's funds. Procurement requests over $3,000 must be initiated and approved by the program office chief or head of office; procurement requests of $100,000 of higher must also be approved by the procurement officer, CFO, chief operating officer (COO) and chief of staff; and procurement requests of $500,000 or higher must be reviewed by CFPB's Investment Review Board (IRB).

To process budgetary transactions and enforce fund controls the CFPB has entered into an inter-agency agreement with the U.S. Department of the Treasury's Bureau of the Fiscal Service (formerly Bureau of Public Debt) to provide accounting services. Such accounting services include recording financial transactions, such as budget authority, allocations, collections, accounts receivable, commitments, obligations, accruals, accounts payable, disbursements and journal entries. The Bureau of the Fiscal Service's automated accounting systems provide for budgeting and funds control at various organizational and spending levels, which are established at the request of the customer agency. To complement these fund controls, the CFPB has established a number of additional monitoring controls, such as monthly execution summary reports; quarterly CFO reviews; and mid-year budget review. In addition, the OCFO has established policies and procedures to perform a quarterly accrual analysis of obligations $250,000 or greater to determine if goods and services were received.

As discussed later in the *Findings, Recommendations, and Auditee Responses* section of this report under Finding B, we noted the following:

1. The CFPB has not explicitly communicated the roles and responsibilities for monitoring the validity of certain inter-agency agreements to assigned personnel;
2. The frequency of certain user controls are not in line with user controls suggested by the Bureau of the Fiscal Service in SSAE 16 report, *Report on the Bureau of the Public Debt Administrative Resource Center's Description of its Financial Management Services and the Suitability of the Design and Operating Effectiveness of its Controls for the Period July 1, 2011 to June 30, 2012 dated August 17, 2012*, issued by KPMG LLP; and
3. Management has not developed and documented a rationale for the threshold of $250,000 and over set to perform the accrual reviews as appropriate in relation to the composition of the open obligations balances as of June 30, 2013.

These conditions, in conjunction with the conditions noted in the COR Function (Refer to Finding A in the *Findings, Recommendations, and Auditee Response* section of this report), represent an increased risk that operational control objectives, taken individually or as a whole, will not prevent or detect and correct impairments with respect to oversight of inter-agency agreements, user controls, and accruals for financial reporting.

Overview of Corrective Action Plans

CFPB developed corrective action plans to address the five prior year findings defined by the prior auditor as a risk of deficiency or noncompliance in the *2012 Independent Audit of Operations and Budget* report.[22] The table below captures the status of the prior year findings based on the results of our 2013 performance audit procedures:

2012 Findings	Finding Type	2013 Status
2012.PR.1.2 Establishment of a machine readable privacy notice on CFPB website Recommend that CFPB establish a machine readable privacy notice on its website.	Noncompliance	Closed – We accessed CFPB's Privacy Policy dated September 30, 2012 on its website and determined that it was machine readable. CFPB has completed this corrective action plan.
2012.PR.2.3 Approval of CFPB Privacy Policy (Risk of Deficiency or Noncompliance) Recommend that the formal approval process be completed for the Privacy Policy.	Risk of Deficiency or Noncompliance	Closed – We accessed the CFPB Privacy Policy from the CFPB website which indicates formal approval. CFPB has completed this corrective action plan.
2012.PR.3.2 Bi-annual review of System of Records Notices (SORNs) and Privacy Impact Assessments Recommend that all systems be reviewed at least bi-annually to identify any changes that may require changes to the notice.	Risk of Deficiency or Noncompliance	Closed – We inspected the CFPB policy for SORNs approved February 28, 2013 which notes that the Privacy Team will conduct bi-annual reviews of SORNs and a review of PIAs when changes to the system are proposed or every three years following OMB Circular No. A-130 guidance.
2012.CR.1 Respond to written inquiry to contact center service level agreements (SLAs). Recommend that Consumer Response add response to written inquiry expectations to formal contact center SLAs.	Risk of Deficiency or Noncompliance	Partially Closed – We inspected CFPB's SLA with its primary contractor and identified the written inquiry expectations in its current contact center SLAs. Consumer Response initiated a project plan to design a scalable and sustainable solution for responding to inquiries by the second quarter of FY 2014.
2012.IT.3 Continuity of Operations Plan (COOP) Development Recommend the agency: • Formally assess, document and obtain approval for its business continuity and	Risk of Deficiency or Noncompliance	Partially Closed – We inspected the CFPB approved COOP which contain the pertinent policies essential for the viability of COOP planning; however CFPB has not completed its plan related to address the remaining two recommendations.

[22] 2012 Independent Audit of Operations and Budgets, ASR Analytics, Inc., November 13, 2012. The finding numbering system represents the number assigned in the 2012 audit

2012 Findings	Finding Type	2013 Status
Recovery Time Objective/Recovery Point Objective (RTO/RPO) requirements for all major aspects of headquarter and regional operations, in accordance with applicable COOP standards; • Finalize pertinent policies essential for the viability of COOP planning (e.g., Occupant Emergency Plan); and • Continue to flesh-out the COOP documents and component plans, based on the approved business continuity and recovery RTP/RPO requirements.		

The prior year audit report also included 23 performance improvement opportunities (PIOs).[23] As part of the process the CFPB has in place to address PIOs, the OCFO provided the recommended PIOs to the affected head of Divisions and Offices for their evaluation and consideration.

Findings, Recommendations, and Auditee Responses

Our performance audit resulted in two control deficiency[24] findings, presented below. We discussed the results of the performance audit with CFPB's CFO, Deputy CFO, Director of Planning and Budget, Director of Procurement, Deputy Director of Procurement, the Counsel to the CFO and the COR for the audit contract in an exit conference.

A. Controls Over the COR Function Need To Be Strengthened

Conditions:

1. We selected 15 contract actions, which were included in a total of 14 contract files. We found that 10 of the 14 files did not contain all required contract documentation as follows:

[23] A Performance Improvement Opportunity (PIO) was defined by the prior auditor as category of recommendations that does not require corrective action.

[24] Government Auditing Standards, 2011 Revision – Paragraph 6.2. In performance audits, a deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct (1) impairments of effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) noncompliance with provisions of laws, regulations, contracts, or grant agreements on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective is not met.

1) 4 of 14 COR files did not contain fully and properly executed COR designation letters for each COR who had been assigned to administer the contract;
2) 3 of 14 COR files did not contain contract deliverable(s) and reports;
3) 5 of 14 COR files did not contain invoice data (4 of which simply referenced the Invoice Processing Platform - IPP); and
4) 9 of 14 COR files did not contain documentation related to the COR's determination of contractor performance.

Criteria:

- CFPB Policy C00-0028, *Policy for Contracting Officer's Representative (COR) Contract Files*, which incorporated FAR Subpart 4.8- Government Contract Files, states that the COR will establish, organize and maintain the working contract file into the following sections:
  1) Contract/Agreement, orders and modifications
  2) COR designation letter
  3) Contract data deliverables and reports
  4) Correspondence, to include:
     a. Contracting Officer – COR Correspondence
     b. Contractor – COR Correspondence
  5) Invoices
  6) COR documentation of contractor performance
  7) Miscellaneous records

Cause:

- As a newly established organization, the CFPB continues to develop and implement its policies and procedures, while recruiting and training its cadre of CORs in the COR roles and responsibilities. We found that as of January 2013 approximately 78% (71 of 91) of the CFPB COR pool had less than 2 years of experience;

- CORs are delegated limited responsibilities to perform specified contract management duties related to technical oversight and administration of specific contracts including acceptance/rejection of supplies and services as well as monitoring contractor performance; and

- Reviews of contract files were performed annually by Bureau of the Fiscal Service personnel to test compliance with contract administration file requirements.

Effect:

Given a relative lack of experience, CORs may not prioritize the COR contract file maintenance roles and responsibilities over other roles and responsibilities associated with the CORs primary CFPB function; thus, not executing CFPB policies and procedures as intended. In addition, CFPB's budget monitoring and execution may be adversely impacted by the management of the COR function through the unnecessary retention of contract funds in the obligated status.

Recommendations:

We recommend that CFPB management reinforce its policies and procedures related to the COR function including steps to:

1. Reinforce detailed instructions to the COR pool related to contract administrative file maintenance;
2. Increase the frequency of reviews of contract administration files maintained by CORs.

B. Certain Controls Over Budget Execution and Monitoring Need To Be Strengthened

Conditions:

This finding needs to be considered in conjunction with Finding A – *Controls Over the COR Function Need To Be Strengthen*. Certain monitoring controls over the budget execution are not designed in such a way that when applied as a whole will help reduce the risk to prevent or detect and correct impairments with respect to oversight of inter-agency agreements, user controls and accruals for financial reporting.

We selected 5 transactions from the Undelivered Orders (UDO) detail file as of June 30, 2013 for review based on risk. We noted the following:

1. Two of the five transactions were inter-agency agreements with other federal agencies related to employees detailed to the CFPB. In both instances, CFPB had not properly captured the delivered status of the detailed employees, who had completed work for CFPB under the inter-agency agreements. The CFPB does not assign CORs to monitor inter-agency agreements. The CFPB assigns invoice approvers for inter-agency agreements. There was no evidence that CFPB actively followed up with its Federal partners on the status of invoices not received.

2. For two of the five transactions selected for test work, the transactions were not timely de-obligated or accrued to capture the delivered status of the order. User controls established by the CFPB over the monitoring of open obligations are not in-line with the user controls suggested by the Bureau of the Fiscal Service, as described in SSAE 16 report, *Report on the Bureau of the Public Debt Administrative Resource Center's Description of its Financial Management Services and the*

Suitability of the Design and Operating Effectiveness of its Controls for the Period July 1, 2011 to June 30, 2012 dated August 17, 2012, issued by KPMG LLP. The Bureau of the Fiscal Service advises customer agencies to develop review processes for open obligations no less frequently than quarterly. However, CFPB implemented a de-obligation review process on an annual basis.

3. The CFPB has adopted an accrual policy to review and accrue, if necessary, line items that have an amount available of $250,000 and over in the CFPB Open Obligations report. It does not require the consideration of open obligations without payment activity during the current fiscal year in its review of open obligations under its materiality threshold of $250,000. Based on condition 1 above, we analyzed the UDO balance of $101.9 million as of June 30, 2013 and determined that $37 million of the UDO balance had no payment activity. CFPB reviewed $25.5 million of the open obligations without current payment activity based on the $250,000 and over threshold resulting in an accrual of $7.6 million; however, open obligations totaling $11.5 million under the $250,000 materiality threshold were not subject to review.

Criteria:

- CFPB–COO-041, *Policy for Recording Commitments and Obligations*, establishes policies and procedures for reviewing all unpaid obligations and de-obligating all unsubstantiated obligations.

- Bureau of the Fiscal Service in SSAE 16 report, *Report on the Bureau of the Public Debt Administrative Resource Center's Description of its Financial Management Services and the Suitability of the Design and Operating Effectiveness of its Controls for the Period July 1, 2011 to June 30, 2012*, issued by KPMG LLP, states "ARC works with Customer Agencies to develop and implement processes to ensure the accuracy of their accounting information. This included reviewing open commitment, obligation, expense accrual, customer agreement, and open billing document reports for completeness, accuracy, and validity. This review is conducted by the Customer Agencies no less frequently than quarterly. Based on the review, a determination is made on the action(s) needed to adjust or remove and invalid items in ARC's accounting records."

- For leading practices, the OMB Circular A-123, *Management's Responsibility for Internal Control*, states that "Management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations."

Cause:

Taking into consideration the control issues noted in the COR function and its obligation review policy, the CFPB has not performed a collective review of the design of certain detective controls from a frequency and precision perspective with respect to oversight of inter-agency agreements, user controls, and accruals for financial reporting.

Effect:

Based on the conditions listed above, there is an increased risk that the UDO balance as of June 30, 2013 may be overstated.

Recommendations:

We recommend that CFPB management implement the following recommendations to improve controls over its budget execution function with respect to UDOs:

1. Perform a gap internal control analysis of the design of its preventive and detective controls over the budget execution process including documenting the rationale for its policy for reviewing line items that have an amount available of $250,000 and over from the Open Obligations report for accrual purposes;
2. Analyze its UDO balance to identify stale UDOs and potential further actions needed based on the analysis of:
    - Open obligations with no invoices since contract inception; and
    - Open obligations with other federal agencies with no accruals or invoices since contract inception;
3. Perform the de-obligation process more than once a year;
4. Clearly and explicitly communicate specific responsibilities to monitor the administration of inter-agency agreements to assigned personnel.

Auditee Response:

CFPB's responses to the findings identified in our audit are described in Appendix I. We did not audit CFPB's responses and, accordingly, express no opinion on them.

cfpb Consumer Financial Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 5, 2013

Mr. Jorge Asef-Sargent
KPMG, L.L.P.
1801 K Street, NW
Suite 12000
Washington, DC 20006

Dear Mr. Asef-Sargent,

Thank you for the opportunity to review and comment on KPMG, L.L.P.'s draft report *"Consumer Financial Protection Bureau Independent Audit of Selected Operations and Budget,"* dated October 11, 2013. We have reviewed the pre-final report and concur with the draft recommendations.

We agree with the findings included in your report, namely that certain controls over the COR and budget execution functions can be strengthened. In fact, my colleagues are already preparing to implement the proposed recommendations around these audit focus areas.

In an effort to enhance the Bureau's operations and budget and to address the opportunities to improve performance in the audit focus areas that you studied during your engagement, the Bureau is reviewing existing COR and Budget Execution controls and will develop new policies and procedures or adjust existing policies and procedures, as appropriate, to incorporate your recommendations. The following comments on each recommendation provide additional detail on our planned actions to enhance our processes and controls.

Thank you again for your review.

Sincerely,

Stephen J. Agostini

Stephen Agostini
Chief Financial Officer

Auditor Conditions: Contracting Officer's Representative (COR) Function

Condition 1, Sections 1 – 4: The Auditor noted that in its test work performed on COR contract file administration of 14 separate contract files, some of the COR files did not contain:

- *properly executed COR designation letters;*
- *contract deliverables and reports, invoice data; or*
- *documentation of contractor performance.*

CFPB Response: The CFPB agrees with the condition described above. As such, CFPB will update its COR file policy to reflect that:

a) all invoice approval information relating to contracts is located within the Internet Payment Platform (IPP)[1];
b) contract deliverables and reports or invoice data containing sensitive information and/or personally identifiable information (PII) may be stored separately from the COR file; and
c) contractor performance information is maintained in the COR file if there are performance issues.

Auditor Recommendations: Contracting Officer's Representative (COR) Function

1) *The Auditor recommends that CFPB reinforce detailed instructions related to contract administrative file maintenance to CORs.*

CFPB Response: The CFPB agrees with the recommendation to reinforce detailed instructions related to contract administrative file maintenance to its CORs. At the next COR Roundtable scheduled in October, management will circulate the auditor's Final Audit Report and brief the CORs on the report's findings with an emphasis on refreshing instructions contained in the Procurement Career Development Handbook and on reinforcing all COR file maintenance protocols.

2) *The Auditor recommends that CFPB increase the frequency of reviews of contract administration files maintained by CORs.*

CFPB Response: The CFPB agrees with the recommendation to increase the frequency of reviews of contract administration files maintained by Bureau CORs. Currently, CFPB reviews COR files on an annual basis. The Office of Procurement will bolster the annual desk audit schedule of COR files with additional periodic random audits.

Auditor Recommendations: Budget Execution & Monitoring

3) *The Auditor recommends that CFPB perform a gap internal control analysis of the design of its preventive and detective controls over the budget execution process including documenting the rationale for its policy for only reviewing line items that have an amount available over $250,000 from the Open Obligations report for accrual purposes.*

CFPB Response: The CFPB agrees with the recommendation to document the rationale for its policy of reviewing amounts available over $250,000 for accrual purposes. The CFPB has performed a preliminary analysis of the materiality threshold using the guidance provided in the Financial Audit Manual prepared by the Government Accountability Office and the President's Council on Integrity and Efficiency. During FY 2014, the CFPB will finalize its analysis and document its rationale for the resulting materiality threshold.

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[1] Invoices for inter-agency agreements (IAAs) are not processed via the IPP. IAAs were not a subject of this audit as they are not assigned CORs. Rather, IAAs are assigned invoice approvers.

4) *The Auditor recommends that CFPB analyze its undelivered order (UDO) balance to identify stale UDOs in open obligations with no invoices since contract inception; and open obligations with other federal agencies with no accruals or invoices since contract inception.*

CFPB Response: The CFPB agrees with the recommendation to perform additional analyses on open obligations upon which the vendor or Federal partner have not invoiced for work performed. The inability to reconcile transactions (receivables, payables, revenue, and expenses) among Federal agencies continues to be a material weakness at the Federal level government-wide, which is consistent with this recommendation. The CFPB will use the results of the analyses to determine if additional processes need to be implemented to reduce the risk of maintaining stale UDOs in the financial records.

5) *The Auditor recommends that CFPB perform the de-obligation process more than once a year.*

CFPB Response: The CFPB agrees with the recommendation to perform the de-obligation process more than once a year. The CFPB has plans to perform the de-obligation process at least semi-annually during FY 2014.

6) *The Auditor recommends that CFPB assign personnel with specific responsibilities to monitor the administration of inter-agency agreements.*

CFPB Response: The CFPB agrees with the recommendation to assign personnel with specific responsibilities to monitor the administration of inter-agency agreements. Furthermore, the CFPB will clearly communicate the specific responsibilities to monitor the administration of inter-agency agreements to assigned personnel via new policy specific to inter-agency agreements. The CFPB has already drafted a policy specific to inter-agency agreements and will make any necessary updates to that policy to further clarify the roles and responsibilities of the assigned personnel consistent with this recommendation.